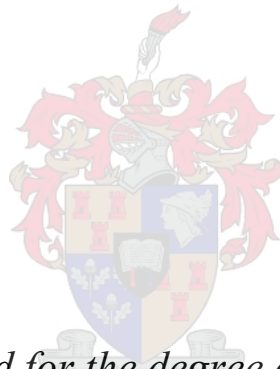


**From Self to Citizenry:  
An exploration of the construction and destruction  
of trust when a police officer rapes**

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## **Declaration**

By submitting this thesis electronically, I declare that the entirety of the work contained therein is my own, original work, that I am the sole author thereof (save to the extent explicitly otherwise stated), that reproduction and publication thereof by Stellenbosch University will not infringe any third party rights and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

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## ABSTRACT

The aim of this thesis is to develop a feminist account of the erosion of trust brought about by acts of police rape at personal, interpersonal and institutional levels. The study explores the role that trust plays in the cultivation and destruction of relationships where police officers abuse the women and children they should serve to protect. The study commences in chapters one and two with a documentation of the South African Police Service (SAPS) history of (sexual) violence and goes on to describe three recent cases of police rape perpetrated against two women and a girl, namely the cases of K, F and Rebecca Mosepele. The study lays out the facts and circumstances of the rapes and assaults committed in *N K v Minister of Safety and Security* 2005 (6) SA 419 (CC), *F v Minister of Safety and Security* 2012 (1) SA 536 (CC) and *Mosepele v Mokgethi and Another* 2018 SA 66 (ZAWHC). Statistical research collated by the Independent Police Investigative Directorate (IPID) is used to contextualise these individual cases and to justify some of the generalisations made from the analysis. Attention is also paid to court findings on vicarious liability when police officers rape the people they are supposed to protect.

Chapter three presents the theoretical basis for the philosophical dimension of the study, which focuses on relations of trust – how they are constructed, and how they are undermined or completely destroyed. Following Trudy Govier's and Niklas Luhmann's analyses, the defining characteristics of trust are identified as involving positive expectations (premised on the trustor's appraisal of the competence and intentions of the trustee), risk (which can be exacerbated by systemic vulnerabilities experienced by certain groups), meaningful communication (which involves expectation of sincerity and transparency) and a temporal dimension (which allows us to extrapolate past outcomes to future expectations). The specific forms of trust that are investigated are interpersonal trust (which includes both thick and thin relations with others), self-trust (which is dependent on our self-assessment of our competencies, intentions, and ability to make sound judgements) and institutional trust (which necessitates that institutions are viewed as legitimate, and which – it is argued – is necessary to also reinforce the legitimacy of the state as such, especially in young democracies). These different forms of trust are interwoven and form a living and dynamic network of trust, which is drawn upon when trust judgements are made.

In chapter four the theoretical framework of trust is applied to the case studies laid out in chapter two. The main conclusions drawn from this analysis include that trust should be viewed as an interconnected network of trust and that the assault committed by police officers violates this network in different ways, such as jeopardizing the victim's ability to form future trusting judgements and relationships. In the application of institutional trust to the cases, it is shown that the harms experienced as a result of institutional trust violations are compounded when there are insufficient levels of institutional oversight (for example by the IPID) and accountability in the aftermath of such violations. This institutional breach of trust constitutes a further injustice suffered by the victims of police rape and ultimately undermines the trustworthiness of the state itself, in relation to its most vulnerable citizens.

## ABSTRAK

Die doel van hierdie tesis is om 'n feministiese perspektief te bied op die ondermyning van vertroue wat volg op dade van polisie-verkragting. Vertroue word deur sulke optrede ondermyn op die persoonlike, die interpersoonlike en die institusionele vlak. Die studie ondersoek daarom die rol wat vertroue speel in die kultivering en vernietiging van verhoudings wanneer polisie-offisiere die vroue en kinders wat hulle moet beskerm, verkrag. Die studie begin in die eerste twee hoofstukke met 'n oorsig oor die Suid-Afrikaanse Polisie-diens (SAPD) se geskiedenis van (seksuele) geweld, gevolg deur 'n bespreking van drie onlangse hofsake rakende polisie-verkragting, gepleeg teen twee vroue en 'n meisie, naamlik die gevalle van K, F en Rebecca Mosepele. Die feitestelle van die verkragtings in die volgende sake word dus aan die orde gestel: *N K v Minister of Safety and Security* 2005 (6) SA 419 (CC), *F v Minister of Safety and Security* 2012 (1) SA 536 (CC) en *Mosepele v Mokgethi and Another* 2018 SA 66 (ZAWHC). Statistiese getuienis saamgestel deur die Onafhanklike Polisie-onderzoekdirektoraat (OPOD) word voorts gebruik om hierdie individuele sake te kontekstualiseer en sommige van die veralgemenings van die bevindinge te regverdig. Daar word ook aandag geskenk aan die hofbevindings rakende plaasvervangende aanspreeklikheid wanneer polisie-offisiere die mense verkrag wat hulle veronderstel is om te beskerm teen verkragting.

Hoofstuk drie verskaf die teoretiese basis vir die filosofiese dimensie van die studie, wat fokus op vertrouensverhoudings – hoe hulle tot stand kom, en hoe hulle ondermyn of heeltemal vernietig word. In navolging van Trudy Govier en Niklas Luhmann se analyses, word die definiërende eienskappe van vertroue geïdentifiseer as dat dit positiewe verwagtings behels (gebaseer op die vertrouwer se inskatting van die vertroude se vermoëns en bedoelings), asook risiko (wat vererger kan word deur sistemiese verwondbaarhede wat deur spesifieke groepe beleef word), betekenisvolle kommunikasie (wat die verwagting van opregtheid en deursigtigheid behels) en 'n tydsdimensie (wat ons in staat stel om uitkomst van die verlede te ekstrapoleer na toekomsverwagtinge). Die spesifieke vorme van vertroue wat ondersoek word is interpersoonlike vertroue (wat sowel 'dik' as 'dun' verhoudings met ander insluit), self-vertroue of vertroue in jouself (wat afhanklik is van ons self-assesering oor ons bevoegdhede, bedoelings en oordeelsvermoë), en institusionele vertroue (wat vereis dat instellings as legitiem beskou moet word, en wat – so word geargumenteer – noodsaaklik is om ook die legitimiteit van die staat self te bevestig, veral in jong demokrasieë). Hierdie

verskillende vorme van vertroue is met mekaar verweef en vorm 'n lewende en dinamiese vertrouensnetwerk, waarvan ons gebruik maak wanneer ons betroubaarheidsoordele vel.

In hoofstuk vier word die teoretiese raamwerk van vertroue toegepas op die gevallestudies soos in hoofstuk twee uiteengesit. Die belangrikste gevolgtrekkings wat voortvloei uit hierdie analise sluit in dat vertroue beskou kan word as 'n verweefde vertrouensnetwerk en dat seksuele aanval uitgevoer deur polisie-offisiere daarom die ganse netwerk beskadig, op verskillende maniere, byvoorbeeld dit saboteer die slagoffer se vermoë om in die toekoms vertrouensverhoudings te bou en betroubaarheidsoordele te vel. In die toepassing van die idee van institusionele vertroue op die hofsake, word aangetoon dat die skade wat gely word as gevolg van die institusionele vertrouensbreuk, beduidend vererger word wanneer onvoldoende vlakke van institusionele oorsig (bv. deur die OPOD) en aanspreeklikheid die afloop van die aanval kenmerk. Hierdie institusionele vertrouensbreuk behels inderdaad 'n verdere onreg wat deur die slagoffers van polisie-verkragting gely word, en dit ondermyn uiteindelik die betroubaarheid van die staat self, in verhouding tot die staat se mees weerlose burgers.

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## CHAPTER 1: INTRODUCTION

### 1.1. Study Rationale

In 2018, I was appointed as researcher at the Social Justice Coalition (SJC). The SJC is a community-based organization in Khayelitsha which advocates for the rights of people living in informal settlements in Khayelitsha and across South Africa. From 2003-2012, the SJC was part of a network of civil society organizations, including Equal Education (EE), The Treatment Action Campaign (TAC), Ndifuna Ukwazi (NU) and the Triangle Project, that rallied for the formation of a commission to look into the breakdown in relationships between the South African Police Service (SAPS) in Khayelitsha and those who live and work in Khayelitsha (Tyabazayo, 2014: 18). In the years since the release of the [Commission's report in 2014](#), the SJC has worked tirelessly to achieve the realization of these recommendations. The recommendations of the Commission were based on the understanding that police need to be available to assist civilians in instances where *violent* crime (murder in particular) is taking place. This means that crimes such as rape, murder and armed robbery need to be prioritized over common assault and theft. The Commission found that the allocation of police resources did not reflect this:

The Commission acknowledges that significant reallocation of members may well be necessary in the Western Cape to bring about a fair and rational allocation. It accepts that this is a complex process that cannot be achieved overnight, particularly as it may have implications for police station infrastructure. It recommends that once the new allocation method is determined, it should be phased in over a period of time that should not exceed three years (O'Regan & Pikoli, 2014: 450).

The desperate need for a commission of inquiry arose because of the high levels of vigilante killings and even higher levels of femicide and rape in the area.<sup>1</sup> The families of victims were left without closure and justice because the police service failed to perform their most basic functions of investigating crimes and protecting those most vulnerable. The murders of Lorna Mlofana (2003), Nandipha Makeke (2005) and Zoliswa Nkonyana (2006), all poor Black

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<sup>1</sup> In the 2019/20 Annual Crime Statistics made available by the SAPS, it states that there were 460 reported rapes in the Khayelitsha area in 2010/11. This included 218 reported rapes at Harare police precinct, 174 at Khayelitsha Site B police precinct and 68 at Lingeletu West police precinct. These reported cases, which likely reflect only a fraction of actual rape cases, amount to more than one rape a day in the area of Khayelitsha alone.

women living and working in Khayelitsha, spoke directly to this and, as a result, largely informed the cry for the establishment of a Commission. These three cases formed three of the eight original complaints raised by organisations as justification for the urgent need for the Commission. The murder of these three Black women constitutes a great injustice in this country. The horror of these cases is not only due to the actions of the rapists and murderers but includes the ways in which swift justice and accountability evaded these victims, even in death.

In the years since the release of the Commission's report in 2014, government institutions, like the SAPS and the National Prosecuting Authority (NPA), have continued to fail the women of Khayelitsha and all poor Black women living in informal settlements nationwide. Local NGO's, like the SJC, continue to work towards the realization of the Commission's 20 recommendations (The Social Justice Coalition, 2019). My role at the SJC was to research, write and speak on the state of policing in Khayelitsha specifically and South Africa as a whole. It was through my research and analysis of the annual crime statistics, case law and community activism that I became increasingly concerned about the (mis)conduct of police officers and their role in the fight against gender-based violence. These experiences and insights led to the formulation of the research problem of this thesis.

In the last decade, conversations surrounding police brutality in the United States of America (USA), which were largely sparked by the BlackLivesMatter movement, have resulted in a global outcry against the profiling, abuse and murder of Black American men and women by US police officers (Al Jazeera Media Network, 2020). The murders of George Floyd (46) and Breonna Taylor (26) are only two examples in the endless list of senseless killings of Black Americans by state agents. In the aftermath of these murders, it was state agents and departments, including police precincts and state attorneys, that sabotaged justice for the victims and their families. This fact further highlighted the systemic and violent racism that still forms part of the culture of policing in that country. However, the occurrence of police brutality in South Africa is not new or novel. Even in the years following South Africa's first democratic election, promises of freedom and human rights have not been held up. Violence committed by the police continues to affect those who are poor, racially discriminated against and vulnerable. The violence inflicted on poor Black people who protest the indignity and injustice of poor service delivery, is an ongoing testament to this. Most recently, water cannons were used against vulnerable social grant applicants (Khoza, 2021). For my research at the

SJC, I drew on my own experiences of police brutality during the university #FeesMustFall and #EndRapeCulture protests as well as the assault that my partner and I experienced at the #AMINEXT protests held in Cape Town in September 2019. The irony of police officers assaulting women, queer and non-binary people and allies at a protest against gender-based violence is stark and damning.

These experiences coupled with stories such as the attempted murder of Elsa Booysen (*Booyesen v Minister of Safety and Security*, 2018) by her police officer boyfriend, led me to focus my research and activism on the police as actual/direct perpetrators of femicide and gender-based violence (Bawa, 2018). I realized that, in the past, concern has been focused on police inefficiency, neglect, failures, and incompetencies. Now, that focus is shifting. In a society plagued by domestic violence, child grooming, violent patriarchy, misogyny, and rape, how do we theorize the state and, by extension, the police as agents of the state and their relationship with women<sup>2</sup>? How do we view and engage with the police? How do the police engage and treat us as women? How do the systemic oppression and vulnerabilities that certain women face due to race, class, employment, and sexual orientation influence the type of service or behaviour that they experience from police officials?

## **1.2. Research Question**

If the police are both the first face of the criminal justice system (when, for example, filling out a protection order against an abusive partner or reporting a rape) and the last line of defence women and children have against violence (when, for example, family and friends have failed in assisting and when the police finally enforce the law against perpetrators), how is a network of trust involving women, the police and the state affected and endangered by the actions of police officers who themselves commit rape? I centre the concept of trust in this question because I view it as lying at the heart of this troubled relationship between South African women and the SAPS.

## **1.3. The SAPS and Sexual Violence: A Brief History**

### **1.3.1. The SAPS**

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<sup>2</sup> Men and boys are also victimised in this way, but they are not the focus in this study. The violence and secondary victimisation that men might experience at the hands of state agents, like the SAPS, deserve its own investigation. Men might experience very particular gender-specific obstacles to reporting crimes to the police where men are the victims.

The apartheid-era police service (SAP) was characterized by a decentralized police service. Prior to 1994, the South African Police consisted of 11 police forces and the crimes committed in ‘independent homelands’, segregated areas for Black people, were tellingly and damningly not included in the national statistics (Smythe, 2015: 17). This speaks volumes about the government not viewing or treating those parts of the population as fully worthy of state protection. In fact, police presence was a source of fear and oppression for Black populations. On the historic attitudes, culture, and mandates of the apartheid police force, Smythe (ibid., 49) writes:

Throughout its existence, the South African Police (SAP) had been a highly militarised force primarily serving the political purpose of enforcing white minority rule — first that of the British colonial regime and later of the Afrikaner-Nationalist apartheid state. They were very visible in canary-yellow armoured vehicles, and brutal in their tactics.

She (ibid.) continues:

The deeply chauvinist tenets of Christian- Nationalist ideology, to which state institutions were structurally bound after the 1948 victory of the National Party, also reinforced the overwhelmingly masculinist and patriarchal orientation of the police. Police work was men’s work, and as late as 1992 only 5 per cent of the police force was female.

White supremacist, Christian and sexist ideologies mandated the actions and violence perpetrated by the SAP. In the wake of the new democratic dispensation, a complete overhaul of this force was needed to instil the values of freedom, dignity, and security for those who had previously been denied these rights. Essentially the Black, Coloured and Indian population of South Africa, who had largely only felt the presence of police when they were inflicting violence and enforcing the laws of an oppressive regime, were for the first time experiencing a police *service* which was mandated to protect and service them also. However, the reconceptualization of the police force as a police service was not an easy task. Firstly, the apartheid police were poorly skilled and were badly resourced with regards to their ability to patrol, investigate and make arrests for common law crimes such as murder, rape, assault, theft (ibid., 50). The police force under apartheid was known for its brutality in enforcing oppressive laws pertaining to segregation and political suppression. It was characterized by kidnapping,

killing, violent assault and forced displacement of civilians. As a result, it lacked basic legitimacy amongst the majority of citizens and was widely feared by ordinary South Africans (ibid.). It is due to this historical legacy of a fundamental lack of legitimacy and authority that the new democratic government attempted to overhaul policing in South Africa after 1994. The new democratic dispensation promised a transparent, effective, and accountable government and a police service that would be mandated to protect and serve, especially those who have been historically denied these rights and protections.

### 1.3.2. *Sexual Violence*

Pumla Gqola, in her book *Rape: A South African Nightmare* (2015), writes on the centuries-long history of sexual violence in South Africa. She writes about slave women who were stripped of their personhood only for history to erase the pervasive ways in which the imperial project's central mission was to rape the land, resources, and people they colonized. She (2015: 42) writes:

In other words, if we are at all serious about making sense of rape's hold on our society, we need to interrogate the histories of rape in South Africa. To do so, we need to look back to the kinds of work rape has done in slavocratic and colonial South Africa.

She (ibid.) goes on to say:

The rape of slaves was an integral part of the architecture of slave-ordered Cape society. Note the place and naming of The Slave Lodge in Cape Town. Built in 1679, it served as housing for a total of approximately nine thousand slaves owned by the Dutch East India Company, prisoners and mentally ill people between 1670 and 1810. It was known as the first brothel and "the company slave women, prostitutes. As slave status passed through the maternal line, all of the children produced by these unions were enslaved from birth, regardless of paternity", according to Mary Caroline Cravens.

That is to say, that rape, while more openly spoken about and advocated against in the new democracy, is not new or novel in the South African context. In fact, it is this long history of systemic sexual violence that festered into the violent hyper-masculinity that targets women today. After South Africa's political transition, the violence inflicted on women has continued with pronounced force and disrupted the illusion and hope that a new democratic dispensation

would result in a free and protected society for women as well as men. There are many examples that speak to this, but none as pronounced as the arrest and trial of then Deputy President of South Africa, Jacob Gedleyihlekisa Zuma, for rape in 2005 (Gqola, 2015: 101). In spite of the highly publicised trial, in 2009 Jacob Zuma was inaugurated as President of South Africa. It says something about South African politics and society that someone who has stood trial for rape can become president. To have a president who was arrested for rape influences how we talk about sexual violence at the dinner table, schools, hospitals, churches, and at police stations. To have the highest figure of authority in one's nation be accused of perpetrating rape, a crime which fundamentally violates the autonomy and personhood of a person, is to ignore the cries and struggles of women who continue to be victims of sexual violence in this country. Jacob Zuma and his supporters stripped away the dignity and freedom of a young Black woman. Whereas Jacob Zuma went on to become president of the country, Fezekile Ntsukela Kuzwayo was vilified. During the trial, her home in KwaZulu-Natal was burnt down and, after the trial, she and her mother fled the country (Tlhabi, 2007: 160). The demonization and secondary victimisation she suffered set the stage for all other women who want to come forward and report rapes committed by men who are clothed in the authority of the state. In relation to this thesis, this case highlights how the foundation of our society and our democracy can be shifted and broken when men who are put in positions of authority are accused of rape. In the same way, our democracy is unequivocally fragmented and compromised by rape committed by police officers.

According to the 2019/2020 crime statistics, released by the Minister of Police<sup>3</sup>, 42 289 rapes were reported. This means that, on average, 115 acts of rape are committed a day. In that same year, 53 293 sexual offences<sup>4</sup> were reported. This means that, on average, 146 cases of sexual offences are committed a day. These statistics remain diluted versions of the true rape statistics in the country because of the low report rate of sexual violence<sup>5</sup>. The SAPS is an integral instrument in the fight against gender-based violence, and the main instrument of the state to

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<sup>3</sup> The Minister of Police was formerly known as the Minister of Safety and Security. As a result, these titles will be used interchangeably throughout this thesis, depending on which was applicable during the time period being discussed.

<sup>4</sup> Sexual Offences is the overall classification for crimes that fall under the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. Rape, sexual assault, attempted sexual offences and contact sexual offences all fall under this classification.

<sup>5</sup> In a 2010 survey conducted by the Gauteng Gender Based Violence Indicators Project and the South African Medical Research Council, it was found that only 3.9% of women in the Gauteng region who had been raped (by either a partner or a non-partner) had reported the crime to the police (Machisa, Jewkes, Morna & Rama 2011: 9).

protect citizens against this scourge. They are involved in the process of gaining a protection order against a perpetrator of intimate partner violence and they are the body that enforce these orders against perpetrators. In cases of domestic violence, it is often the SAPS that stand between women and children and the men who assault and abuse them. In cases of sexual violence, it is the SAPS that investigates and gathers evidence that is used in prosecution. SAPS officials are the gears of the criminal justice system and should work to prevent repeat offenders from committing serial rape. It is the SAPS that investigates sexual violence, gathers evidence, prepares cases for court and, in general, protects victims and society from these forms of violence, which aim to displace and shatter the bodily integrity of women and children in this country.

If trust in police and the criminal justice system falters, women, children, and men are deterred from reporting cases of sexual violence to the police. In cases where police officers themselves are perpetrators of sexual violence, the entire institution of policing and civilians' perceptions of the police hang in the balance. It is this construction and destruction of trust relationships that this thesis aims to investigate. When a police officer commits an act of rape or sexual assault, the incident must be reported to the Independent Police Investigate Directorate (IPID). IPID is an independent and impartial body that is mandated to oversee the conduct of police officers employed by the South African government (Independent Police Investigative Directorate Act 1 of 2011). In IPID's annual report of 2014/2015 there were 124 cases of rape committed by police officers reported. Between 2014 and 2019, there were a total of 571 cases of rape committed by police officers<sup>6</sup> reported, according to the annual reports published in the Independent Police Investigative Directorate Annual Report 2014/15- 2018/19. Of the total 571 cases over the five-year period, only 365 cases made it onto the court roll. This means that less than 64% of all reports of rape committed by police officers made it onto the court roll. In the annual report of 2018/2019, of the 124 reported rape cases against a police officer where 83 cases (approximately 67% of reported cases) were placed on a court roll but only 6 police

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<sup>6</sup> According to the 2014/2015 IPID Annual Report, there were 124 reported cases of rape by police officers. Of these 124 reported cases, only 59 made it onto a court roll (Republic of South Africa, 2015). According to the 2015/2016 IPID Annual Report, there were 106 reported cases of rape by police officers. Of these 106 reported cases, only 64 made it onto a court roll (Republic of South Africa, 2016). According to the 2016/2017 IPID Annual Report, there was 112 reported cases of rape by police officers. Of these 112 reported cases, 68 cases made it onto a court roll (Republic of South Africa, 2017). According to the 2017/2018 IPID Annual Report, there was 105 reported cases of rape by police officers. Of these 105 reported cases, 91 made it onto a court roll (Republic of South Africa, 2018). According to the 2018/19 IPID Annual Report, there was 124 reported cases of rape by police officers. Of these 124 reported cases, only 83 made it onto a court roll (Republic of South Africa, 2019).



officers received a criminal conviction. In other words, only 4.8% of reported cases resulted in a criminal conviction (Republic of South Africa, 2019).

The aim of this thesis is to explore and investigate the role that trust plays in the construction and destruction of relationships between police officers and the women they have raped. I aim to investigate and explore how rape committed by a police officer affects women's ability to form interconnected relationships of trust with others, themselves, and the state. Additionally, I unpack how these atrocious violations of trust, which are committed by state agents, affect the legitimacy of South Africa's newly established democracy. Through a philosophical exploration of trust, I investigate the fundamental role of trust in the relationship between the women citizenry and SAPS (and by extension the state itself). I explore a complex network of distinct forms of trust, interpersonal trust, self-trust, and institutional trust, which all play important roles in the formulation of trust judgements. I argue that, where trusting relationships end in violations of trust, the entire network can be violated (depending on the severity of these violations). When these violations are sufficiently severe, they can greatly affect the truster's (and others') ability to form trusting judgements in the future.

#### ***1.4. Methodology***

This thesis is primarily a philosophical investigation. I examine and interpret philosophical concepts and theories to explain and unpack theories of trust and draw generalised conclusions about incidents where SAPS officers commit rape. In this thesis, I also present empirical, statistical research collated from the Independent Police Investigative Directorate. This evidence forms a justificatory basis for my philosophical investigation. I supplement these statistics with three case studies; two of the cases made their way to the Constitutional Court of South Africa and one was heard at the North West Province High Court. These cases involve three accounts of rapes which were committed by police officers after these officers initiated trusting relationships with their prospective victims. I selected these case studies for three specific reasons. First, in spite of alarmingly high statistics of rape committed by police officers, there is a scarcity of public accounts of these cases. These case studies provide a detailed account of police officers using their positions of power and authority to project trustworthiness in order to commit rape. Second, the two cases involving K and F made their way to the Constitutional Court of South Africa, as a result, these two cases shifted the legal framework of rape and sexual violence in South Africa. The insights from the Constitutional Court in these two cases are invaluable. The third case, involving Rebecca Mosepele,

exemplifies obstacles to justice for many victims who are raped by figures of authority. The third reason I have chosen these cases is that each of them illustrates a fierce tenacity for justice. The victims in each of cases faced insurmountable obstacles in the pursuit of justice and accountability. This thesis and the women in these cases are crucial in understanding the landscape of trust and sexual violence in South Africa.

These statistics and judgements, together with the theoretical frameworks that shape the lens for my analysis, provide the foundation of my thesis investigation. I draw on these judgements as case studies throughout this thesis and I view these cases through the lens of trust as a philosophical concept in order to explain and expand on the role of trust in these violations and the effects that rape has on trust. I then draw conclusions about social stability and governmental legitimacy based on these explorations. I utilize a feminist philosophical account of trust theory to illustrate the interconnected nature of interpersonal trust, self-trust, and institutional trust. Several theorists form the foundation of my philosophical investigation as they each write on a distinct form of trust. I utilize and explore the work of the following theorists to illustrate trust as a network of dynamic relationships:

Trudy Govier is an Emerita Professor of Philosophy at the University of Lethbridge in Alberta, Canada. Her work focuses on social philosophy in the areas of informal logic<sup>7</sup>, forgiveness<sup>8</sup>, victimhood<sup>9</sup>, trust, and reconciliation<sup>10</sup>. In 2002, Govier co-wrote an article with Wilhelm Verwoerd titled *The Promise of Apology* where they investigated how (political) apologies can assist in laying the groundwork for the rebuilding of relationships in the aftermath of betrayal and injustice. Govier and Verwoerd use the South African Truth and Reconciliation Commission (TRC) as a central case study for the application of apology, forgiveness, and reconciliation as philosophical concepts.

I was strongly drawn to her work on trust in interpersonal and social relationships. I specifically look at her work in *Social Trust and Human Communities* (1997) and *Dilemmas of Trust* (1998). In her work in the field of trust as a philosophical concept, she analyses trust as a commonly used term in order to make sense of how we trust, why we trust and the implications

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<sup>7</sup> *A Practical Study of Argument* Seven Editions (1985, 1988, 1992, 1997, 2001, 2010 with enhanced seventh edition published in 2012).

<sup>8</sup> *Forgiveness and Revenge*, 2002.

<sup>9</sup> *Victims and Victimhood*, 2015.

<sup>10</sup> *Dilemmas of Reconciliation* co-written with Prager, C.A.L., 2003

of our trusting relationships. She provides a powerful theoretical framework for trust in others and trust in one's self. From this, I draw conclusions about the harms associated with violations of trust for future interpersonal trusting relationships and future relationships of trust that we have with ourselves.

Mark E. Warren is the Harold and Dorie Merilees Chair at the Centre for the Study of Democratic Institutions at the University of Columbia, in New York. He combines political philosophy and political science to develop frameworks of understanding and application in the field of democratic studies. He focuses on challenges to modern democratic institutions. He is the author of the acclaimed political science and political philosophy book *Democracy and Association* (2001).

For the purposes of this thesis, I focus on Warren's theories on social and institutional forms of trust within liberal democracies. This paper explores democratic theory insofar as it unpacks the precarious nature of institutional trust in newly established democracies. I specifically make use of his chapter entitled 'Trust and Democracy', which appears in *The Oxford Handbook of Social and Political Trust* (2018). I also rely on the work of Claus Offe, particularly his article 'How Can We Trust Our Fellow Citizens', which appears in Warren's edited book entitled *Democracy & Trust* (1999). I utilize Warren and Offe's theories of institutional trust in democracies to explore and apply the concept of institutional trust. From this, I draw conclusions about the construction and destruction of institutional trust and the harms that result from violations of institutional trust.

Ben Bradford is a Professor at Global City Policing within the Jill Dando Institute of Security and Crime Science at the University College of London (University College of London, 2021). He is the author of *Stop and Search and Police Legitimacy* (2017). Mike Hough is an Emeritus Professor at the School of Law, Birkbeck, University of London. Hough's research focused on procedural justice theory, perceptions of crime and punishment and trends in crime and sentencing, to name a few (Institute for Crime & Justice Policy Research, 2021). Jonathan Jackson is a Professor in Research Methodology and Head of the Department of Methodology. Jackson's research focuses on procedural and distributive justice in the criminal justice system, as well as the legitimacy of actors and institutions within the criminal justice system. He co-edited the *Routledge Handbook of Criminal Justice Ethics* (2017) with Jonathan Jacobs. For the purposes of the thesis, I utilize these theorists' collaborative work on trust and legitimacy.

I specifically look at their collaborative chapter titled ‘Trust in Justice’, which appeared in Eric M. Uslaner’s edited book, *The Oxford Handbook of Social and Political Trust* (2018). These theorists provide a foundation for conceptualizing democratic legitimacy (the right to power) and its intricate relationship with institutional trust. I employ this theorization to explore the effects that profound violations of institutional trust can have on the legitimacy of institutions and the legitimacy of the body that authorizes them. In the cases presented in this thesis, the institution in question is the SAPS and the democratic South African state is the body that authorizes them.

The work of these theorists forms the theoretical framework for my exposition of trust as an interconnected network that can be violated and affected by the conduct of police officers. This is illustrated in the case studies. I also draw on the work of Niklaus Luhmann (1979), Adriaan Peperzak (2013) and Patti Lenard (2008 & 2018) to explore trust as a philosophical concept. This thesis is also greatly influenced by the feminist philosophical writings of Doris Brothers (1995), Miranda Fricker (2007), Susan Brison (2003), Kristin Borgwald (2012) and Debra Bergoffen (2018). These feminist theorists provide theoretical and practical accounts of the radical effects and harms that rape has on relationships with the self, others, and the social world we live in.

### ***1.5. Chapter Layout***

Chapter 2 of this thesis explores the legal position on policing gender-based violence. I lay out the court’s reasoning in the watershed case of Alix Carmichele in *Carmichele v Minister of Safety and Security* 2001 (10) BCLR 995 (CC). This case is not one of the three cases explored throughout this thesis, but it does provide resounding clarity on the Constitutional Court’s position on the police and prosecution’s duty to protect women and children against gender-based violence. I unpack and explore certain legal and philosophical arguments, as posited by Constitutional Court judges in this case, that pertain to the duty to protect and ensure the rights and freedoms of women and children in South Africa. I lay out the facts and circumstances of the rapes and assaults committed in *N K v Minister of Safety and Security* 2005 (6) SA 419 (CC)<sup>11</sup>, *F v Minister of Safety and Security* 2012 (1) SA 536 (CC) and *Mosepele v Mokgethi and Another* 2018 SA 66 (ZAWHC). These three case studies form the crux of this thesis investigation. Each of these cases was presented to the court so that it could rule on the

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<sup>11</sup> Hereafter, I will refer to this case in its shortened form: *K v Minister of Safety and Security*.

application of the legal-philosophical principle of vicarious liability. I unpack this principle as a *prima facie* legal and social argument for the link between the actions of police officers and the state. This principle of vicarious liability introduces the idea that trust is part of a network and not reducible to its interpersonal dimension. The principle of vicarious liability highlights the relationship between the citizenry (women and children especially) and the police (as agents of the South African democratic state).

Chapter 3 forms the theoretical basis of my philosophical study. It looks at the different systems of trust that form an interconnected and complex network of trust. Even though trust operates as a network, I attempt to distinguish between different forms of trust. These distinctions are artificial to some extent as all forms of trust are interconnected and all play a role in the formation of any single trust judgement. This chapter has four main themes. In the first, I explore the basic and necessary components, or aspects of, the philosophical concept of trust. Here I utilize theories and parameters to limit and define trust as a philosophical concept. I explore the three components that give rise to trust as set out by Trudy Govier in *Social Trust and Human Communities* (1997) and *Dilemmas of Trust* (1998). Govier presents three components of trust, namely trust as a positive expectation, trust as involving risk and lastly trust as a form of meaningful communication. I argue that there is a fourth important component of trust as a philosophical concept: trust and its relationship with time. I employ the work of Niklas Luhmann in *Trust and Power* (1997) to argue this point.

The second theme of this chapter explores interpersonal trust as a philosophical concept. I explore different theories to reach a greater understanding about the stages and factors that influence and give rise to interpersonal trust judgements and relationships. I utilize Govier (1997 and 1998) for this investigation. The second half of this section presents an analysis of the possible harms that can arise as a result of violations of interpersonal trust. Here I focus on Miranda Fricker's assessment of epistemic injustice, as argued in *Epistemic Injustice: Power & the Ethics of Knowledge* (2007).

The third theme in this chapter explores self-trust as a philosophical concept. Here I unpack and explore several theories to define self-trust as a philosophical concept. I once again utilize theories and explanations as presented by Govier (1997 and 1998). While self-trust and interpersonal trust are closely related, it is important to understand how these two forms of trust are distinctly cultivated for the sake of this investigation. As a result, I argue that the harms

that individuals suffer as a result of different forms of trust violations can be distinguished despite their being deeply interconnected. I explore the harms to the self that are suffered as a result of violations to self-trust. I draw on the theories of Kristin Borgwald (2012), Doris Brothers (1995), and Susan Brison (2003).

The fourth and final theme in this chapter is an exploration of institutional trust as a philosophical concept. I explore and unpack the social and political roles of institutional trust in our society. I draw on the work of Mark E. Warren (2018) and Claus Offe (1999). Using their theories, I argue that institutional trust plays a particularly significant role in newly established democracies, as opposed to established or older democracies. I look at the possible harms that result from institutional violations of trust and investigate the relationship between trust and legitimacy.

Chapter 4 of this thesis applies the theoretical structures and frameworks laid out in chapter 3 to the case studies discussed in chapter 2. I apply my theory of trust to the cases of K, F and Rebecca Mosepele, who were raped and assaulted by police officers after these officers intentionally and deceptively established relationships of trust with them. Again, I distinguish between three forms of trust (namely, interpersonal trust, self-trust and institutional trust) to illustrate the distinct consequences that may follow the violation of each form of trust. As previously stated, I distinguish between these forms of trust for clarity's sake but, in actuality, these forms of trust, and the consequences of their violation, cannot be meaningfully separated out from each other. This chapter contains three parts. The first looks at how the police officers in these cases initiated and cultivated interpersonal trusting relationships. I apply the theoretical structure explored in the third chapter to illustrate this. I then argue that severe violations of interpersonal trust, such as the violations in these cases, deeply affect and sabotage the victim's ability to maintain and form future interpersonal trusting relationships. I explore what this means for the victims' sense of belonging and positioning in society, which is made up of a multitude of interpersonal relationships that are built on trust.

Part two of this chapter, investigates the role that self-trust played in the construction of trusting relationships between the police officers and the women in the case studies. I look at the aftermath of rape for the self. I apply Susan Brison's (2003) work, as laid out in the previous chapter, to argue that the rapes committed by these officers, after a trusting relationship was nurtured, could result in the shattering of the victims' senses of self and embodiment in the

world. When the comfortable embodiment, narrative-clarity and balance between the autonomy and relationality of the self are compromised, the self is shattered. This is because the bonds binding it to its world are shattered. I look at how shame, victim-blaming and rape culture work to assault and violate the self even after the physical assault committed by the perpetrator has ended. As a result of these violations, there are severe consequences for the self, this includes damage to the self's ability to function in society.

In the third theme of this chapter, I apply the theories of institutional trust, laid out in chapter 3, to the case studies. I look at the significance of the social role of perpetrators as police officers. In particular, I look at how these men were deemed trustworthy because of the public offices they held. I look at how the trust the victims placed in the SAPS as an institution was violated by the rapes and assaults that were committed by the police officers in the case studies. I argue that the consequences of these violations have far-reaching implications for the authority and legitimacy of the SAPS and the state, specifically the newly established democratic state.

Chapter 5 highlights the core arguments I have made in this thesis. I conclude my findings in this chapter. In this chapter I reaffirm the urgency of this philosophical investigation, for the victims of these three cases and all other women and children that have been targeted, manipulated, and raped by police officers. Lastly, I propose prospective future research that remains important but has not been included in this thesis.

Each of these chapters furthers my exploration of these complex and devastating assaults. Through the theoretical exploration and analysis of the case studies presented, I argue that the trusting relationships which were established between the women and officers in these case studies involved an interconnected network of trust, namely, interpersonal trust, self-trust, and institutional trust. Where rape is committed after police officers initiated trusting relationships with women, these violations affect future personal relationships, relationships with the self, and relationships between women and the institution of the police service and the state as employer of these officers. Where these harms affect the authority and legitimacy of the democratic state, there are far-reaching consequences for the women citizenry of the South African democratic state.



## CHAPTER 2: THE SAPS - FAILURES AND VIOLATIONS

### *Introduction*

In the previous chapter, I laid out the rationale, context, and methodology for this investigation. In this chapter, I will, firstly, contextualize the role and responsibilities of the police (and the state as their employers), particularly with regards to protecting women and children from gender-based violence and sexual violence. In this regard, I will refer to the watershed case of *Carmichele v Minister of Safety and Security* 2001 (10) BCLR 995 (CC) in which the Constitutional Court of South Africa highlighted the role of police officers as agents of justice who have the responsibility to act against systemic and pervasive sexual violence, which infringes on the most fundamental dignity and freedom of women and children in this country. Having set out the legal mandate of police officers, I will move on to explain the principle of vicarious liability, which is used to hold employers liable for the actions of their employees. I argue that the common law theory of vicarious liability shows *prima facie* that the state can be held liable for the wrongful actions of police officers. Following this discussion, I will turn to three judgements, *N K v Minister of Safety and Security* 2005 (6) SA 419 (CC)<sup>12</sup>, *F v Minister of Safety and Security* 2012 (1) SA 536 (CC) and *Mosepele v Mokgethi and Another* 2018 SA 66 (ZAWHC), which will be used as case studies in this thesis. These case studies form the foundation of my philosophical investigation. In all three of these case studies, police officers initiated relationships with women under the guise of sincerity and trustworthiness, only to violently assault and rape these women. The victims in these cases employed the principle of vicarious liability to claim damages against the Minister of Police (formerly known as the Minister of Safety and Security) for the actions of his employees. Two of these cases were heard in the Constitutional Court of South Africa and one in the North West High Court of South Africa. In this chapter, I lay out the circumstances and facts surrounding each of these cases. In the following chapter I describe in detail the theoretical frame to be used to analyse the trust relationships in these case studies, and in chapter 4, I will analyse the cases using that lens.

### **2.1. Roles and Responsibilities of the SAPS: *Carmichele v Minister of Safety and Security***

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<sup>12</sup> Will from here on out be referred to as *K v Minister of Safety and Security*.



On the morning of 6 August 1995, Alix Jean Carmichele was viciously attacked and injured by Francois Coetzee. The attack took place at the residence of Julie Gosling at Noetzie, a small village roughly 12 kilometres from Knysna. Coetzee had a history of criminal behaviour and had begun molesting his niece while he was still a teenager (*Carmichele v Minister of Safety and Security*, 4). When Coetzee was 20 years old, he climbed through the window of Beverley Claassen, fondled and harassed her in her sleep, and escaped through the window after she woke. He was convicted of housebreaking and indecent assault as a result of this incident. Less than six months later, Coetzee attempted to rape and murder E T (E), who was 17 years old at the time of the assault. Although Coetzee had a history of sexual violence and a criminal record to corroborate his threat to society, the prosecutor failed to mention Coetzee's previous conviction to the magistrate at the hearing for this assault on E. As a result, on 6 March 1995, a mere two days after the rape and assault of E, Coetzee was released with a warning. Gosling, who was Coetzee's mother's employer, pleaded with police officials and the senior prosecutor to detain Coetzee pending his trial. The senior prosecutor informed Gosling that there was "no law to protect them" and that "the authorities' hands were tied unless Coetzee committed another offence" (*ibid.*, at 15). Towards the end of June 1995, Carmichele caught Coetzee snooping around Gosling's home. Gosling again went to the police station where she was once again referred to the senior prosecutor. The senior prosecutor again claimed that she was powerless to do anything about Coetzee (*ibid.*, 22).

On Sunday 6 August 1995, Carmichele went to Gosling's home and upon arrival was confronted by Coetzee who had broken in. He immediately attacked her with a pick handle. His attacks were directed at her head and face. One of his blows struck and broke her arm and he threatened her and dragged her around the house. He abandoned the pick handled and lunged at Carmichele with a knife, stabbing her left breast. During the attack she managed to kick him and upset his balance which gave her a chance to escape. Carmichele then ran along the beach until someone came to her aid (*ibid.*, 12).

Carmichele sought damages from Coetzee, but also wished to hold the police officer and senior prosecutor liable for their failure to act. In the ensuing case, Carmichele argued that the police and prosecution had committed wrongful acts of omission and failed to act in the course and scope of their employment with the state. She argued that the police officers and the prosecutor both had an obligation to protect her and failed to meet this obligation as a result of their negligence. This negligence, she argued, ultimately led to her assault (*ibid.*, 13).

Carmichele claimed (*ibid* at 27) that the relevant members of the South African Police Services (SAPS) and the National Prosecuting Authority (NPA) owed her a duty to:

...ensure that she enjoyed her constitutional rights of inter alia the right to life, the right to respect for and protection of her dignity, the right to freedom and security, the right to personal privacy and the right to freedom of movement.

As part of her submission to the High Court and the Supreme Court of Appeal, she also argued that the Interim Constitution (Republic of South Africa, 1993) conferred additional duties on the state to protect women against violent crime in general and sexual abuse in particular. Even though Carmichele was not sexually assaulted by Coetzee, an argument could be made that, because he had raped and assaulted women previously, it was likely that he had entered the house and planned to sexually assault Carmichele. More importantly, Gosling and other women in the community feared that Coetzee posed a threat of sexual violence (and murder) because of his past assaults. As such, the failure of the NPA and SAPS agents to protect women and children from Coetzee and, by extension, from violent crimes (including sexual violence) meant that they had failed to ensure the safety of these women and their community. This assertion lent the Carmichele case pronounced importance. The Supreme Court of Appeal (SCA) cited *S v Chapman* 1997 (3) SA 341 (A) at 4:

Rape is a very serious offence, constituting as it does a humiliating, degrading and brutal invasion of the privacy, the dignity and the person of the victim. The rights to dignity, to privacy and the integrity of every person are basic to the ethos of the Constitution and to any defensible civilisation. Women in this country are entitled to the protection of these rights.

It was further argued that the SAPS and the NPA are among the primary agencies of the state who are responsible for the discharge of its constitutional duty to protect the public in general and women, in particular, against violent crime. This argument strengthens the claim contained in my research question, namely that the SAPS often form ‘the first face of the criminal justice system and the last line of defence’ most women and children rely on to safeguard them from sexual attack.

Justices Ackermann and Goldstone noted in the Carmichele Constitutional Court judgement that the positive duty on police members to act can be found in the Interim Constitution (Republic of South Africa, 1993) as well as the Police Act (Republic of South Africa, 1995). They also emphasized that “(i)n addressing these obligations in relation to dignity and the freedom and security of the person, few things can be more important to women than freedom from the threat of sexual violence” (*Carmichele v Minister of Safety and Security* at 62). During these court proceedings, the *amicus curiae* (in this case The Centre for Applied Legal Studies) submitted that “(s)exual violence and the threat of sexual violence goes to the core of women’s subordination in society. It is the single greatest threat to the self-determination of South African women” (*ibid.*).

This judgment is a watershed case precisely because it is crucial in illustrating the role sexual violence plays in undermining the most fundamental freedoms<sup>13</sup> of South African women. It also points out that the police have a duty to protect and serve the interests and the freedom of South Africans, especially South African women and children, who have historically been rendered particularly vulnerable to violence. The guarantees of protection and safety are some of the most vital promises a democratic state makes to its citizenry. In instances where police officers fail to act in accordance with these guarantees, they, as agents of the state, should be held liable along with the state itself, according to the Carmichele verdict. However, there is something even more egregious than negligence. In cases where the police, or other actors of the state that are mandated to protect the interests of the vulnerable, are also perpetrators of violence, and thus exacerbate civilian vulnerability, there should be additional accountability aimed at the state as employers of these actors. I explore this through the common law principle of vicarious liability.

## 2.2. *Vicarious Liability*

In South Africa (as well as many other countries that are dominated by Roman-Dutch and English common law), it is not enough to show that the harm was caused wrongfully to establish liability, one must also show that the accused was at fault (Loubser & Midley, 2017:

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<sup>13</sup> The South African Constitution (Republic of South Africa, 1996) lays out the importance of these fundamental rights and freedoms. This includes the right to human dignity (section 10), to life (section 11), to freedom and security (section 12). Section 12(2) makes specific mention of the right to bodily and psychological integrity (Republic of South Africa, 1996).

138). Fault, as an element of delictual liability<sup>14</sup>, requires that one must “be able to blame and hold a person responsible for the harm that was wrongfully caused to another” (ibid.). Essentially, it is impossible to hold an individual accountable for a crime that he/she did not commit, or which he/she was not a party to (Joubert, 2018: 106). While delictual liability usually has fault as a strict requirement, vicarious liability is an exception to this rule. Vicarious liability is at stake when someone can be held liable for a crime committed by another person. An example of this is when an employer is held accountable for a crime his/her employee committed in the course of his/her employment or duty. For example, Jack is employed as a courier at a company called DeliveryXPress. Jack is in a rush to make a delivery on time, he runs a red traffic light and causes an accident. The other party involved in the accident can claim compensation from Jack as well as DeliveryXPress. The accident, while caused by Jack’s negligence, occurred while Jack was engaged in activities which were within the scope of his duties as a courier, and so vicarious liability applies. In such instances, both the employee and his/her employer may be held accountable and thus liable for claims of damages. While there are many justifications for vicarious liability, the most common is that employers are the best placed to provide recourse to victims and absorb the risk of compensation claims, because employees themselves often do not have the means to settle substantial damage claims that involve large sums of money.

One of the fundamental aspects of vicarious liability is the context of the employment relationship. Ordinarily, vicarious liability applies when the employer is responsible for creating a risk and their liability is, therefore, “co-extensive and identical in every respect with the liability of the servant”, according to *Botes v Van Deventer* 1966 (3) SA 182 (A). Simply put: the employee would not have been in a situation where a crime could be committed were it not for their specific role as an employee of that employer. The creation of risk is a common justification for vicarious liability. This principle continues to be developed and applied to new and varying circumstances. It falls to courts to develop this principle, through its application on a case-by-case basis. It is on this basis that the South African Constitutional Court in *K v Minister of Safety and Security*<sup>15</sup> argued that, in addition to the employee who pursued the interest of the employer, the creation of risk can also play a direct role in establishing whether

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<sup>14</sup> Delictual liability forms part of civil law jurisdiction which can give rise to liability and various forms of remedies such as compensation for damages. Delictual liability forms part of private law as opposed to criminal law.

<sup>15</sup> *K v Minister of Security* is the first of three case studies I present in this thesis. A detailed exploration of these studies follows below.

courts should impose liability on the employer. The court indicated that where the employer creates a risk that third parties may be harmed whilst the employee is promoting the business or interests of the employer, it is fair to hold the employer liable (Loubser & Midley, 2017: 468).

In *K v Minister of Safety and Security*, the court laid out the two-part test that is traditionally used by South African courts to determine whether an employer could be held vicariously liable. The first part of the test questions whether the wrongful acts were committed solely for the purposes of the employee. This question requires a subjective perspective of the employee's mind and is purely a factual question. Was the employee acting in their own interest or in the interest of their employer? If the answer is affirmative in the former then the employer cannot be held liable. However, the second question can determine liability even if the employee acted in their own interest. The second question asks whether there was a sufficiently close link between the employee's act and the business interests of the employer (*K v Minister of Safety and Security*, 23). In the majority judgement, Justice Kate O'Regan looked at the second question and argued that there are additional questions that can be asked if the second question is answered inconclusively. These additional questions are set out in previous jurisprudence in *Minister of Police v Rabie* 1986 AII SA 361 (A). For instance, it needs to be asked if there is a sufficiently close link between the act and the employment. This refers to cases where the act in question is related to the employee's employment even if it is argued that the employee was not acting in a way that furthered the 'purposes of the employer and business of the employer'. This usually occurs when the act occurred in a setting that the employee had access to as a result of their employment or when they have the opportunity to commit the act in question by virtue of their employment. In other words, were it not for the employment of the employee, the circumstances and opportunity for the act, or crime, to be committed would not have arisen. Justice O'Regan cited a judgement by the Supreme Court of Canada which ruled that a non-profit organisation could be held liable for the conduct of one of its employees because that individual's employment at the non-profit created the opportunity for them to commit their crime (*Bazley v Curry* 1999 (2) SCR 534 at 26ff):

The opportunity for intimate private control and the parental relationship and power required by the terms of employment created the special environment that nurtured and brought to fruition [the employee's] sexual abuse. The employer's enterprise created and fostered the risk that led to the ultimate harm. The abuse was not a mere accident

of time and place, but the product of the special relationship of intimacy and respect the employer fostered, as well as the special opportunities for exploitation of that relationship it furnished.

When crimes that were facilitated by a relationship of trust that came about as a result of the accused's employment are committed, the employer can be held liable for damages based on the actions of the employee. O'Regan's argument was accepted and this case therefore settled the question of liability in cases such as these. For our purposes, this means that the actions of police officers are inextricably linked to the Ministry of Police and the state itself because these bodies are considered the employers of police officers. Below, I explore three case studies that involve cases where police officers committed acts of rape and were able to do so as a direct result of their position as police officers. These three case studies form the foundation of this philosophical investigation. I will explore the facts of these cases and briefly illustrate how the social position these perpetrators held was instrumental in allowing them to form trusting relationships with the victims, who were subsequently violently assaulted and raped.

### **2.3. *Case Studies***

In the section above, I unpacked the state's role in combating sexual violence through the appointment of employees in the NPA and the SAPS. Thereafter I briefly unpacked the principle of vicarious liability, and raised the question of whether the Ministry and state can be held liable when police officers rape. In this section, the legal and moral liability of the state and Minister of Police with regards to the crimes committed by police officers will be further explored. In particular, this section will explore the legal and moral liability that these actors have for the actions of their agents which endanger women and children, instead of protecting them, as per their mandate. To further illuminate the issues already discussed, I will explore the facts surrounding the three cases already listed, and briefly explore the outcome of each judgement. This serves as a preliminary excavation of the cases; a detailed analysis of the role of trust in each of these cases will follow in chapter 4 of this thesis. The three case studies below involve two South African women and a 13-year-old child, respectively. Notably, the victims in each case relied on police officers to protect them.

(1) On 26 March 1999, Ms K, who was just 20 years old at the time, was dropped off by her stepfather at the Bundu Inn in Johannesburg. K was meeting her friend Stanley van der Westhuizen, who, as per previous arrangements, would drop her at home at the end of the night.

K and Van der Westhuizen danced and later, when the premises closed after midnight, they moved to a sports bar. After some time, a former girlfriend of Mr Van der Westhuizen arrived at the sports bar and an argument ensued between Van der Westhuizen and his former girlfriend. At around 03:30, K asked Van der Westhuizen to drop her off, as per their arrangement, but Van der Westhuizen refused and said he was not ready to leave yet. There was no telephone at the bar so, at around 04:00, K walked to the nearest petrol station in search of a phone to contact her mother.

At the petrol station, the attendant informed her that the phone could not be used for outgoing calls (*K v Minister of Safety and Security* at 3). While K was conversing with the cashier, uniformed Sergeant Nathaniel Rammutle entered the station, asked K where she was going and offered her a lift home. K did not know the police officer and had not met him prior to that evening, but accepted the lift given that it was late, she was stranded, and the lift was volunteered by a uniformed police officer. Upon entering the marked SAPS vehicle, K noticed that there were two other male police officers (Sergeant Ephraim Gabaatholwe and Sergeant Edwin Nqandela) present in the car, both in South African Police Service uniforms as well. All three of the police officers were on duty at the time (*ibid.*, 2). The officers spoke to one another in a language that K did not understand, and K fell asleep shortly thereafter. Upon waking, she noticed that they had taken a turn in the wrong direction and immediately told the driver that they were going the wrong way. The policemen told her to be quiet, threw a SAPS jacket over her head and held it tightly until she struggled to breathe. She begged the police officers to remove the SAPS jacket but was punched in the gut and told that if she did not keep quiet, she would be killed. Soon thereafter the police vehicle came to a halt. Despite her protesting and pleading, K was forced into the backseat of the vehicle and each police officer raped her in turn. Afterwards, the police officers threw her to the ground with the police jacket still over her head. The police vehicle sped away. K looked around the bushes, realized she was close to home and ran all the way there (*ibid.*, 3). K and her mother laid charges of rape and kidnapping against the three police officers. Thereafter K approached the court once again with a claim of vicarious liability against the Minister of Safety and Security because the assault was committed while the police officers were on duty. K was awarded damages by the Constitutional Court in 2005.

(2) On 14 October 1998, Ms F, who was 13 years old at the time, went to a nightclub in George [*F v Minister of Safety and Security* 2012 (1) SA 536 (CC)]. During the early morning of 15



October 1998, F was offered a lift home by Mr Allister Claude van Wyk. Mr Van Wyk was not in a marked police car or uniform, but F noticed that there was a police radio in the car, and this led F to assume that Van Wyk was a detective. F also noticed that there were two other people in the car (one of whom was known to her) which led her to reluctantly accept Van Wyk's offer (*F v Minister of Safety and Security*, 3). When they left the nightclub, F was seated at the back but when the other two passengers were dropped off, she moved to the front passenger seat (*ibid.*, 4). When F moved to the front seat, she noticed a pile of police dockets bearing the name and rank of Mr Van Wyk (*ibid.*, at 10). F asked Van Wyk why there were dockets in his car and Van Wyk replied that he was a private detective. F took this to mean he was a police officer. Instead of driving towards F's home, Van Wyk drove towards Kaaimansrivier. He told F that he wanted to visit some friends before dropping her off and this made F suspicious. On their way to Kaaimansriver, Van Wyk stopped the vehicle in a secluded area where it was very dark. As a result of her suspicion, F fled the car and Van Wyk left.

F later emerged from hiding, walked to the side of the road, and attempted to 'hitchhike'. A vehicle stopped but she quickly realised that it was the vehicle that she had just escaped (*ibid.*, 5). Van Wyk offered to take her home and she reluctantly accepted once again due to her desperate situation (her being a young girl, stranded, nearby a deserted river). While on their way to F's house, Van Wyk unexpectedly swerved off the road and stopped the vehicle. F tried to escape once again but Van Wyk prevented her from escaping. He then assaulted and raped her. Thereafter, he drove her home and, in an attempt to ensure her silence, he threatened to harm and even kill her if she reported the attack (*ibid.*, at 14). Despite these threats, F filed charges of assault and rape against Van Wyk. F also approached the court with a claim for damages against the Minister of Safety and Security for the actions of Van Wyk. F was successful in her claim to hold the Minister of Safety and Security vicariously liable and was awarded damages by the Constitutional Court in 2012.

(3) On 2 September 2015, Rebecca Mosepele, a 27-year-old woman, left work and walked to Shoprite where she purchased a few items. Rebecca was three months pregnant at the time. Upon leaving Shoprite, she heard someone calling her name. She realized it was Constable Mokgethi,<sup>16</sup> wearing his police uniform and driving his personal vehicle. Rebecca knew the

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<sup>16</sup> Mokgethi died before this case was heard in court and is referred to as 'the deceased' in the court papers. The claim by Rebecca Mosepele in this court case (as is the case in the two other cases) was to hold the Minister vicariously liable for the actions of the police officers' conduct.



Constable because she had previously filed complaints against her abusive boyfriend and the Constable was present at the police station when she made the complaint. Mokgethi asked her where she was going and offered her a lift when she said that she was going to the taxi ranks, as he was supposedly meeting someone there anyway. She accepted the offer. When she realized that Mokgethi was not driving towards the taxi rank, she tried to escape the car, but the door was locked. Rebecca argued with him, but he pointed his state-issued police firearm at her head (*Mosepele v Mokgethi and Another*, 3). Mokgethi drove them to a house instead of the taxi rank. He took Rebecca inside, pushed her onto the bed and locked the door. He asked her to undress and when she refused, he did it forcibly. He put his firearm on the pillow and, when she resisted, he said that either she ‘sleeps with him’ or he shoots her (*ibid.*, at 8). He then said he did not care that she was pregnant, climbed on top of her and raped her. When someone later knocked on the room door, he told her to stand up and get dressed. Mokgethi asked for her address but Rebecca refused to tell him. She later went to the police station and laid charges of rape and assault and she was taken to the hospital. Rebecca’s child was born prematurely and died 4 months after birth (*ibid.*, at 5). After the death of Mokgethi, Rebecca approached the court to claim damages from Mokgethi’s deceased estate and presented a claim of vicarious liability against the Minister of Police. Rebecca Mosepele was successful in her claim against Mokgethi’s estate but was unsuccessful<sup>17</sup> in her claim to hold the Minister of Police vicariously liable for the rape and assault committed by Mokgethi.

In the cases discussed, the victims judged the perpetrators to be trustworthy *because* they were police officers. There is an expectation that members of the police service will protect members of the public and provide safety and refuge to those in need. It is with this understanding that the women in the above cases accepted the help offered by these officers.

### ***Conclusion***

In conclusion, the Carmichele case provides a foundational understanding of the role and responsibilities that police officers bear, particularly with regards to protecting women and children in South Africa. In the case of Carmichele, the failure of the SAPS and NPA to protect women in the community amounted to negligence on the part of the individual officers and prosecutors as well as a failure on the part of the state. In cases that involve sexual violence committed by police officers, where the common law principle of vicarious liability is

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<sup>17</sup> I discuss these three cases in greater detail in Chapter 4. I specifically look at the reasoning provided by Judge Gutta in denying Rebecca Mosepele’s claim of vicarious liability.

applicable, a *prima facie* line of liability is drawn between the actions of individual officers, the Minister of Police and the state itself. These cases are not merely examples of ordinary, civilian men assaulting women and children. In the case studies discussed in this chapter, it was the positive expectations that the victims had precisely because their would-be assailants were police personnel that created the opportunity for the assaults to take place. It is the fact that they wore uniforms and were understood to be members of SAPS, that led directly to the risk of trust violation this created for vulnerable victims. In this thesis, I argue that trust as an interconnected philosophical principle is a core factor that facilitates this positive expectation between officer and civilian. It is the presumption of trustworthiness that police personnel are afforded by virtue of their position that creates the opportunity for them to enter into trusting relationships with women, and other members of the public, even when they are not known personally by these members of the public. But this trusting relationship and its violation does not start and end with these two (or more) parties, there are far reaching consequences that result as a violation of these trusting judgments that go beyond interpersonal relationships.

In the following chapter, I explore how a series of distinct forms of trust are at work in the creation of trust relationships between police officers and civilian women. In the fourth chapter, I unpack the SAPS's central duty to protect and serve women and children in South Africa and argue that the rapes committed by police officers destroy an entire network of trust that far surpasses the individual officer and victim. In defending this claim, I will apply the theories of trust discussed in the third chapter to the case studies discussed in this chapter. In chapter 4, I explore the procedures and processes victims had to undergo to arrive at Constitutional Court victories as well as the failure to ensure justice for Rebecca Mosepele. I explore what each of these cases meant for trusting relationships between South African women, the SAPS, and the democratic state, which is the employer of these officers and mandates this relationship of authority.

## CHAPTER 3: A PHILOSOPHICAL EXPLORATION OF TRUST AND TRUST NETWORKS

### *Introduction*

In the previous chapter, I explored the three case studies which I have chosen to inform this philosophical investigation. One of the core features in all three of them was the trusting relationship that preceded the rapes committed by police officers. It was the perpetrators' specific role as police officers, combined with an ostensibly caring attitude, expressed in an offer of help that caused the victims to judge them as trustworthy. These case studies seem to indicate that institutional trust in the police service certainly plays a big role in the formation of the relationship between individual police officers and women, where women are in positions of vulnerability. In this chapter, I explore theoretically, philosophically, the complex and interconnected forms of trust that are unconsciously drawn upon by individuals every day. Different, yet interconnected, forms of trust (namely interpersonal trust, self-trust, and institutional trust) all play crucial roles in the formation of trusting relationships in general as also in the case studies. I start by exploring and unpacking the basic conditions or dimensions of trust as a philosophical concept. I then use a feminist philosophical approach to unpack and explore theories of trust that speak to the construction and destruction of these three spheres of trust. I will argue that this complex network of trust is indispensable because it facilitates our ability to navigate the complex social world around us. Trust is a core feature in the relationships we have with ourselves, other people and the systems that govern us and, as such, lies at the heart of individual agency.

This chapter is divided into four sections. The first, titled 'A Schematic Philosophical Account of Trust', explores Trudy Govier's *Social Trust and Human Communities* (1997) and *Dilemmas of Trust* (1998) as well as Niklas Luhmann's *Trust and Power* (1979). I draw on the work of Govier in order to lay out the basic components of trust: the first is trust as a positive expectation and the second concerns the risk always and inevitably involved in trust. In discussing this risk, I once again refer to Govier, but supplement her argument using the distinction between risk and systemic risk (or, vulnerability) presented by Kimberlé Crenshaw during her keynote address at the SouthBank Centre in 2016. After discussing the role of risk in trust, I will discuss Govier's third component of trust which concerns meaningful communication. In addition to Govier's three components of trust, I introduce Luhmann's

analysis of the complex and interconnected relationship between trust and time as a fourth component of trust.

In the second section of this chapter, titled ‘Interpersonal Trust’, I again draw on the work of Govier to explore the stages and factors that influence interpersonal trusting relationships. Under this theme, I also explore the interpersonal and systemic compromises that exist where interpersonal trust is violated. Thereafter, I explore Miranda Fricker’s (2007) assessment of epistemic trust as an important form of trust that exists in interpersonal communication. In particular, I unpack her work on testimonial and hermeneutical injustice as consequences to further unfold individual and systemic harms that result from violations of interpersonal trust.

In the third section, titled ‘Self-Trust’, I draw on Govier to explain and unpack the philosophical concept of self-trust. In particular, I investigate the importance of self-trust for agents’ ability to function in the world. I unpack how self-trust is cultivated as well as the mutually constitutive, reciprocal relationship self-trust has with interpersonal trust. Thereafter, I investigate the possible harms which may arise in cases where self-trust has been violated. I draw on the theories of Kristin Borgwald (2012), Doris Brothers (1995), Debra Bergoffen (2018) and Susan Brison (2003) to develop a feminist account of the self and the harms of sexual violence, in particular. Through a feminist account of self-trust, I unpack the relationship the self has with its own shame, embodiment, and relational autonomy.

In the fourth section, titled ‘Institutional Trust’, I start by explaining and unpacking the relevance and parameters of the concept of institutional trust. I explore the distinction between first-order and second-order institutions and how each rely on trusting and mistrusting relationships with the citizenry, respectively. I largely draw on the work of Mark E. Warren (2018) to illustrate this. I unpack the necessity and fragility of institutional trust in new democracies. I unpack the meaning of institutional trust and how it affects the social (horizontal) and political (vertical) relationships and networks of our world. Thereafter, I again draw on Warren as well as Claus Offe (1999), to distinguish between particularised and generalized social trust and the cases in which these may be instrumental or harmful to democracy. I also look at why institutional trust is especially important in newer democracies. Finally, I set out the possible harms that arise out of continuous and/or severe violations of institutional trust, including how violations of institutional trust can affect the delicate relationship between trust in the state and legitimacy of the democratic state.

### ***3.1. A Schematic Philosophical Account of Trust***

The human capacity for trust is profound. As we are social creatures and relational beings, we are constantly connected to others and in communication with others. Our capacity for trust is profound because even in cases where our trust might have been broken, we try again, allowing ourselves to be vulnerable once more. As children we are completely dependent upon the care of others, and thus start off by learning to trust naively (without question or considerations of manipulation or duplicity) and, as we grow older, we learn to trust in a way that is more critical and reflective. This development is gradual and based on a spectrum. We typically learn what it means to trust others from the people who are very close to us (usually care givers) before we start to extend that circle towards trusting others who are less close or even complete strangers. In short, our ability to trust (in) others and the (social, political) world around us is cultivated and fostered from the time we are children and continues to shift and grow in an expanding circle, in our adult lives. Our sense and range for trust is constantly changing, shifting, and growing, depending on the environment and scenarios we find ourselves in. It is a dynamic and ongoing process. Stories of broken trust often lie at the core of our self-development and sense of self. Our ability to trust ourselves (including our own trust<sup>18</sup> judgements) and others is like a small flame and, depending on our experiences and environments, our ability to trust and be trustworthy can either be kindled or extinguished.

In our everyday life, we continuously move through different forms and different degrees of trust. We develop and cultivate trust in others and in our own selves. In most cases, our ability to trust is appropriately coupled with intuition, resilience and, in cases where our trust is breached, it can be followed by renewed caution and scepticism. Learning to trust also means learning to mistrust<sup>19</sup> in appropriate ways. We are required to navigate and negotiate between trust and mistrust every day. We are dependent on trusting relationships and we are guided by them. These trusting relationships range from very trivial to very high-stake ones. We trust when we rely on motor vehicle drivers to stop at a pedestrian crossing when we cross the road

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<sup>18</sup> There is an important distinction between trust judgment and trusting judgment. The former refers to a judgment about whether to trust or not and to which degree. The latter refers to where a decision has been made to trust.

<sup>19</sup> Where trust refers to an attitude of positive expectation, mistrust refers to healthy scepticism of others and situations, distrust however refers to indiscriminate suspicion of others. Trust and mistrust are needed in our daily lives, whereas attitudes of distrust are great cause for alarm. I discuss the distinctions between trust, mistrust and distrust in greater detail in section 3.1.2.

by foot. We also trust in our friend's ability to do our makeup well before a night out. But when we face a life-threatening medical condition, we have to choose a professional whom we can trust with guiding us well through the dangers involved.

We trust ourselves and other people and we also trust institutions and systems; we rely on them to keep our world consistent and create order and predictability. We trust institutions and systems during ordinary activities and during times of crisis. For example, I trust that the system of financial exchange is upheld and remains consistent. Transactions require a great deal of trust which, in this example, bears out in my belief that if I were to buy milk and bread tomorrow, I would not be met with high levels of inflation that might render the money I have in my wallet useless. When we intentionally move to place our trust in a person or institution, we tend to consider some degree of evidence (Govier, 1997: 3), for example when we choose our bank or our dentist. However, the amount of evidence we need to trust might not always be the same; sometimes when we trust we do so with very little evidence and rather take cues from our intuition about a specific person or situation. When we are children, we might trust with a naivety that everyone and everything are as they appear to us. There are instances where we do not have the luxury of being overly deliberate about the trust we place in every moving part of our lives. When I drive on the highway, for example, I do so with trust in the traffic regulation system that governs the actions of myself and my fellow motorists. I also trust in the intention of fellow motorists and in my own intentions. In particular, I trust that those who drive on public roads do so with the intention to abide by the rules of the road that will keep themselves and others safe. Most of the time, I do not have the luxury or the time to ponder the intentions, actions and competence of every other driver. The minute I get into my car, I place my trust in the common stranger's desire to be safe as well, the ability of driver's license tests to root out incompetent drivers and in law enforcement to hold reckless drivers to account. In this way, I place my trust in fellow motorists and pedestrians as well as the systems and regulations that prescribe how each of us should conduct ourselves on the road. Trust is essentially a balancing act: too little is paralysing and too much is dangerous.

As we move toward actions (of trusting another) and expectations (of the actions of others) we are guided by a complex web of emotions, beliefs, and attitudes (ibid.). In any society a considerable amount of preconditioned trust is necessary. It is extended and engaged between individuals as well as the systems and networks that administrate everyday functioning of society, including its core institutions and customs. The pervasiveness of trust in the everyday

correlates with the inevitable vulnerability associated with our human condition. In most peacetime societies, when we fall asleep in our homes, we have trust that there will not be an intruder who will threaten our lives. When we get to work, we trust that our colleagues will not eat our food when we store it in a communal fridge. When we go home, we trust in our children and our partner in varying degrees and for varying reasons. We are boundlessly and endlessly dependent upon the trustworthiness of others. To a large extent, when we trust another person we do so in an attempt to actively reduce the complexity, risk, and ambiguity around us (ibid.). Trust and mistrust are necessary for functionality and action in society.

Trust and mistrust greatly influence how we receive people, and these two related phenomena hold great power over our interpersonal and institutional relationships (Govier, 1998: 3). According to Govier, there are three basic and necessary components of trust. The first is that trust is an attitude (ibid., 6.). More specifically, it is a relational attitude between people and involves connections between people which incorporate positive expectations that include competence and motivation as key instruments. The second condition she identifies is that trust always involves risk (ibid., 8). When we trust, there are no absolute guarantees that the outcome we envision will be realized. This means that risk and (systemic risk) vulnerability are inherently involved in trust. Moreover, often there is risk and vulnerability that exist prior to partaking in a trusting relationship and, until we are certain an individual or entity has acted in a way to reduce our vulnerability, this risk remains constant. The third component proposed by Govier (ibid.) is that trust is a form of meaningful communication. When we trust, we have to listen and communicate in a meaningful way if we intend to form purposeful relationships. When we trust and when we aim to be trustworthy, we have to be aware and cognisant of the risks, dimensions, and limitations of trust. In addition to Govier's three basic components, I propose an additional, fourth, dimension involving trust's complex relationship with time. I explore how trust is essentially a dilemma facilitated by the complexities of the human relationship with time. I explore these conditions in greater detail below.

### ***3.1.1. Trust as Positive Expectation***

Trust is fundamentally an attitude toward another person or persons (Govier, 1997: 4). This attitude is based on beliefs and feelings that are influenced by our lived experiences and our experiences of others. This attitude is a relational attitude of positive expectation (Govier, 1998: 6); we bestow a positive expectation upon another when we trust them and when we trust we necessarily render ourselves vulnerable because of this expectation. Every time we decide



(consciously or unconsciously) to trust another, we render ourselves susceptible in the world; susceptible to having that positive expectation thwarted, having that trust violated, and thereby being placed at greater risk. The act of trusting and how it is rewarded also affects our understanding and relations with other people; it affects our sense of who other people are, what they are doing and what they are capable of doing (ibid.). When one person trusts another, there is often (albeit not always) intentionally a creation of a connection which should not be taken for granted. Trust allows us to have a connection with those we trust and allows us to feel more connected and centred in the world around us. If we trust repeatedly and have our positive expectations fulfilled, we tend to build up a sense of the social / human world as a whole as being basically trustworthy and well disposed towards us. This makes us feel at home in the world – we are safe, valued and we can navigate our way with ease. When we trust, the act of trusting therefore also tells us something about our own embodiment and self. This is of course considerably more prominent in thick interpersonal relationships of trust where the truster and trustee continuously build on their experiences of each other.

Govier distinguishes between thick and thin relationships of trust (1997: 6). Thick relationships of trust predominantly involve our closest family and friends, those with whom we strongly associate feelings of loyalty and love. Thick relationships of trust are characterised by the long-term cultivation of trust between agents who share strong emotional bonds. Thick relationships are built on series of past experiences from which trusting judgements are drawn. Conversely, in thin trusting relationships, the opposite is true. In these relationships, we trust with minimal expectation and with an absence of intense and complex emotion. Thin relationships of trust are often found in situations where we do not share a deep and intimate bond with those we trust and where we do not have long-term relationships and experiences to draw a trusting judgement from. For example, it is usually this sort of relationship which is evident between colleagues who do not know each other well. The concept of thin trusting relationships could even include the trust we place in the hands of everyday strangers. Of course, the length of time we have known a person for does not solely determine whether we enter into thick or thin trusting relationships with them. It is also possible that the fact that we know a person very intimately could lead to our mistrusting them with good reason.

Connections or relations of trust can be complex or simplistic, they can range in degree and scope and are often continuously negotiated. When we trust, we do so on the basis of a number of factors which include the identity of the person we are trusting and the purpose served by



the trusting relationship. This intentionality, or positioning of oneself as Adriaan Peperzak explains it, is a very important concept, especially in interpersonal relationships. Peperzak (2013) writes that when we trust another, we do not do so from a freestanding position. Rather, when we trust another, we create a bond or connection with that person. When someone is trusted by another, their life is altered or affected in some small or big way. When an agent is trusted by another, they are aware that their life is involved in one or more aspects of the life of the truster and they cannot sustain a stance of complete disinterest vis-à-vis that person. To trust another means that there is a prospective plan, vision, or activity that the truster has for both truster and trustee together, even if it is as trivial as trusting a cashier to return me the correct amount of change. Trusting in another means that my trust in you involves me in one or more aspects of your life or activities. It associates us together, me with you, and you with me, and gives you a role in my interactions with the world (Peperzak, 2013: 11). Peperzak argues that when we trust another, we turn towards them and that the distance between the two of us is decreased by how much we trust that person. If I have reason to mistrust another, the distance between us increases proportionally. I find Peperzak's arguments compelling for both thick and thin interpersonal relationships. When we form relationships with another, and those relationships are reaffirmed over time through positive experiences then trust bridges the divide between the truster and the trustee. It is in this way that relationships between friends, family and intimate partners grow; this distance is bridged for both because there is mutual trust being cultivated and built upon. In addition to thick relationships of interpersonal trust, thin relationships of trust also serve to bridge the distance between oneself and others (even in cases involving strangers). The thin trusting relationships are imperative because they aim to solidify our place in the social (and political) world which transcends the world created by our close family and friends.

Trust, as discussed, is an attitude which incorporates a positive expectation of other people (Govier, 1998: 6). For Govier (*ibid.*, 7), this positive attitude has two basic dimensions, namely motivation and competence. Motivation is our sense that the person we trust has good intentions, or motivations, towards us. This means that we believe that the trustee is unlikely to intentionally cause us harm or pain and that they are motivated to act in our best interest. When we trust a person, we believe that their motivations towards us emerge from care, affection, and concern. This care, affection and concern are given and negotiated in different degrees. For example, the deep, thick relationship of trust that a person has with their romantic partner has considerably more care, affection, and concern than the trust they may have built

with their local bus driver. But even in fleeting relationships of trust (as in the case with the bus driver), there is a positive expectation that those we trust will, at the very least, mean us no harm and be motivated to act in our general best interests. To be trusted and, by extension, to be trustworthy means to take into consideration what is in the best interest of the person who trusts you. With strangers, this typically involves only a narrow band of interest, for example the bus passengers' interest in being transported safely and timely to their destiny. With friends and colleagues the band of interests that we entrust to others, expands considerably.

A trustworthy person is in the second place also someone who is reasonably competent (Govier, 1998: 7). The trustee should be competent enough to do what is expected of them in terms of the trusting relationship. A trustworthy person thus has, at a minimum, both good intentions and reasonable competence regarding the trust placed in them (*ibid.*). Competence depends on the context of what is asked of the one who is entrusted (Govier, 1997: 68). There is a general, foundational competence that we expect when interacting with those around us. At the very least, we tend to assume that everyone is competent to speak, hear and remember. We assume that individuals are competent insofar as we believe them to be engaged, responsive and honest. If I am visiting Amsterdam for the first time and I am struggling to figure out how the local trams work, I would ask someone who is familiar with the city because I assume that they are competent and knowledgeable to speak on this matter. I might look for someone who seems to have a kind demeanour, in order to satisfy the first dimension of good intention (or, at least, absence of malice). The greater the risks, the more we tend to narrow the parameters of who we perceive to be competent enough to warrant our trust. In matters where we require more specialized technical knowledge, such as legal or medical matters, the issue of competence gets more complex. In these cases, we expect expert competence in addition to theoretical training, experience, and recognition from peers. To be a competent expert also requires human sensitivity, flexibility, common sense and the ability to make accurate observations (Govier, 1997: 68). For example, if I wake up with a scratchy throat and think it is nothing more than a common cold, I would simply take my usual supplements and hope it dissipates. However, if after a few days my throat hurts every time I swallow and my symptoms get progressively worse, I would decide to consult a specialist, in this case my local general practitioner (GP) medical doctor. In consulting with my GP, I trust in their competence; theoretical training, experience and empathy. I trust them to diagnose me quickly and efficiently and provide me with what I will need to feel better. I trust that my GP is competent to provide this and thus I

am more likely to seek their advice as opposed to the advice of a well-intentioned but non-expert person, such as a concerned family member.

Someone might not be trustworthy if they do not have the required skills to perform the duties or protect the interests which we have entrusted them with. In this case, it could be said that we trusted too easily or too broadly or that the trustee overestimated their abilities and thus violated our trust. Competence remains central with regards to whom we trust and how we negotiate the extent to which we trust particular persons (Govier, 1998: 7). Sometimes this trust is specific with clear defining boundaries and at other times a general (unspecified) expectation is entrusted to another. Even if this expectation is general and vague, it can be greatly valued and important. If, for example, my Grandmother, an elderly person, is entrusted to a caregiver, I trust that the caregiver on duty will have good intentions and will do what is needed to at the very least not cause harm to my Grandmother. My trust in them as a caregiver is also based on the expectation that they are knowledgeable and competent to provide the level of care and service that is needed to properly take care of an elderly person. In this example, my expectation of competence entails a belief that the caregiver will be competent in a number of specific and unspecified roles, such as administering the correct medication dosages, not harming an elder during physical therapy and so on. In other words, our trust in the caregiver is not just based on perceived good intentions and motivations regarding one or a few specific duties or interests. This “and so on” is especially important because often, and especially in long-term relationships, our trusting relationships have an unspecified, open-ended quality. We expect the trusted person to do what we would deem to be appropriate and in our best interests, even in scenarios we might not have foreseen (*ibid.*). To use the example of a caregiver again, I would want a certain level of my own compassion and fondness for my Grandmother to be present in the intention and actions of the caregiver over the course of the time of caregiving. When we enter into this sort of relationship, we want to trust that the caregiver will value the thoughts and comforts of the person entrusted to their care. We trust that they will not only draw on their specialised knowledge about caring but also keep the best interests of the person they are caring for at the centre of their care work.

When we consider trusting strangers, we usually have very little knowledge about their competence. Thus, we generally tend to limit the scope of trust under these circumstances. For instance, we trust that strangers will not physically harm us, but we may not trust that strangers would go out of their way to promote our interests. When we trust someone we know well, our

scope of trust is likely to expand in proportion to how well we know them if our knowledge of them has caused us to develop a positive image of them. We do not have to list every single thing we expect from our friends; we are likely to trust people that we consider friends to act in our best interest, regardless of how the circumstances or situations might change (Govier, 1997: 4). In our thick, longstanding relationships of trust, there is a longstanding history of experiences and positive outcomes to trusting judgements. We tend to be more resilient within these relationships of trust and our lives are connected with the people we trust.

As a result, if someone we have a thick relationship of trust with betrays our trust, we tend to evaluate that betrayal in the context of the other positive experiences of trust we have had with that person and we may not automatically judge that the betrayal means that the person in question is untrustworthy. Conversely, if that same betrayal took place in a thin relationship of trust, it would probably indicate to us that the trustee is not trustworthy. For example, my sister eats the leftovers I have been saving for lunch. I am annoyed at her eating food that was not hers, and I am inconvenienced because I now have to make or buy lunch. I situate this experience of betrayal against a plethora of other experiences where my sister has upheld and affirmed the trust that I have put in her and I am more likely to continue the trusting relationship in spite of the incident (Govier, 1998: 188). However, this may not be the case if we are mere acquaintances with a person who breaks our trust. While there is still a positive expectation and optimism in thin trusting relationships, it is not as resilient or complex as a thick and rich relationship that is characterised by long term trust (Govier, 1998: 7). This is why my response to the betrayal of someone eating my food without asking me would be very different if, for instance, it was a colleague who ate a packed lunch which I had stored in a communal fridge at work. In this instance, I would immediately have renewed suspicious about that colleague and the betrayal would colour my experiences with them to a much greater extent. This is not to say that limited or context-specific forms of trust are less valuable; in fact, the opposite is true. We rely on a multitude of different trusting relationships in order to live our ordinary lives. For example, after working at a specific job for a period of time, I am better positioned to determine which colleagues I can trust with my work projects. I may decide to trust my colleague Joel with a specific project because I believe he is competent and that he shares my passion for that specific project. The fact that I can trust my colleagues in this way makes it possible for me to do my job on a day-to-day basis. This sort of trust is thus important even if it does not mean that we would extend it and now all of a sudden trust Joel with personal matters, such as possible marital problems I may be experiencing. In this way, I am able to

trust Joel and will make myself susceptible to risk in terms of my success at work and the success of our project, but that trust does not extend to talking about my other, more intimate vulnerabilities.

In trusting relationships that involve close family and friends, and which are based on a long history of commitments being followed through with thick relationships of trust, trust comes about almost automatically. This is because we continuously build and cultivate trust and reciprocal trustworthiness (mutually positive expectations) with those closest to us. We entrust them with matters that are important to us over and over again with positive results. However, our long-term experiences with other people can also lead to mistrust if our positive expectations are not met. When someone has betrayed our trust and the betrayal leads us to mistrust them, overcoming this mistrusting attitude takes a great deal of work and depending on the betrayal in question, the mistrust may not be overcome at all. Where an intimate or primary relationship of trust (for instance, a relationship with a close friend or family member) is marked by continuous and sustained trust violations, an attitude of distrust may develop. This can shift and change the individual's perspective on trust and trustworthiness of others in general. In these cases, it becomes almost impossible for an individual to gauge and cultivate trust with others, particularly if they are constantly paranoid, suspicious, or scared because of how trust violations have adversely affected them in the past. I explore this further below in section 3.1.2.

To summarize, to trust is to adopt a relational attitude towards another person which entails a positive expectation about the intentions and competence of that person. The intentions and competencies of others play an important role in our ability to form trust judgements about their trustworthiness. These judgements, and the trust involved in them, vary in terms of scope, degree, and outcome. When we entrust ourselves to another within thick relationships of trust, we continuously build on our experiences of trust within that relationship. In doing so, we turn towards the person we have a thick trusting relationship with and bridge the distance between us. When we trust strangers, our expectations are less comprehensive. Generally, we have the positive expectation that strangers will not intentionally harm us and will do justice to whatever small aspect of our lives we entrust them with. Fleeting or thin relationships of trust are vital and necessary for everyday functioning and for successfully navigating the complex social world around us. We cannot go around the world distrusting all strangers, because that would incapacitate our agency in the world. Where thin relationships of trust end in positive results,

we are able to slowly build and cultivate deeper bonds of trust which may lead to loyalty and friendship with others.

### **3.1.2. *Trust as Risk***

The second component of trust Govier discusses is risk. Under this section, I want to create a conceptual distinction between risk and vulnerability. I argue that risk exists in every trust judgement, but systemic risk, or vulnerability, only arises when specific intersections of identities are targeted by discrimination and oppression. I employ renowned African American feminist legal scholar Kimberlé Crenshaw's keynote address at the SouthBank Centre (2016) to illustrate this. I move on to discuss the complex nature of trust and trusting judgements and highlight risk as an inalienable and unavoidable aspect of trust. I will also look at the role systemic vulnerability plays in trusting relationships between people. I do so by looking at Catriona Mackenzie's theory of situational vulnerability (2014) and I apply her theory to simple and complex relationships of trust that involve systemic vulnerability and extensive risk. Thereafter, I look at the harms and risks involved in trusting and mistrusting too often, respectively.

In this address (Crenshaw, 2016), Crenshaw explains the term 'intersectionality'. She says that intersectionality is not simply about how identities such as race, class and gender intersect with each other, but rather it is about how these intersecting identities are the targets of discrimination and oppression. She posits that, through the lens of intersectionality, our society can work to redress historical intersectional failures which have been overlooked precisely because the multiple, or layered, oppression that certain groups of people experience have not been recognized. She (ibid.) argues that, in the sector of employment discrimination, the term intersectionality is used to draw attention to the many ways in which Black women have been excluded from employment as a result of their gender and race. Historically, when Black women have contested discrimination, they have had to combine two causes of action: one against a discriminatory race policy and one against a discriminatory gender policy for hiring people (ibid.). As a result, Black women were barred from broadening the legal criteria for discrimination to include the two intersecting causes of discrimination against them. I utilize this understanding of intersectionality to advance my argument that risk arises every time anyone makes a trust judgement. In contrast with this universal inevitability of risk in trust relationships, vulnerability is a specific form of risk that arises as a result of discrimination and

it is exacerbated where intersecting identities are targeted by oppression, thereby exacerbating the threats of social harm for individuals who possess these identities.

When we entrust something to someone we take a risk because our trust could be violated. This is always the case, and yet we have to trust in order not to be socially paralysed. When we consider trusting someone, we consider the possibility that we may be disappointed or harmed if the person were to let us down. Risk is an inherent and inescapable aspect of trust; trust would not exist without risk and a certain degree of vulnerability. Simply put, a world where one is never at risk is a world where trust, and therefore social bonds, cannot exist. Similarly, one cannot trust without taking risks and rendering oneself exposed to another's goodwill and competence to some extent. To deem another as trustworthy, and to entrust something to someone, includes the possibility that we can be let down. There is moreover an inherent asymmetry in trust. Two people could both have trust in each other generally, but where there is a specific goal or end an individual entrusts another with, there is skewed risk for the truster. When we trust another person, we run the risk of being harmed if our trust is broken. For example, imagine my friend and I agree that she will fetch me from class on a particular day. On that day, I trust that my friend will fetch me and thus wait for her instead of catching the bus. If my friend does not honour her commitment to fetch me, I am left without a lift home. Because I trusted her and therefore did not take the bus, I am stranded and more vulnerable to other dangers. When we trust another person, we entrust something to them, whether it be an object, a duty, or an action, associated with our interests (in safety, or dignity, or whatever). When we trust there is always the possibility that the person we trust will fail us. Even when the trustee has sincere intentions, they could still let us down because of a vast array of possible incompetencies, and even factors beyond their control. Again, there is an important distinction between the ordinary risks or exposures that every person might face when confronted with the possibility of their trust being broken and the vulnerabilities that only certain groups of people face when their trust is violated. I explore this further in the next paragraph.

In addition to the risks universally involved in entrusting someone with something important, there are also socio-economic and political vulnerabilities and systemic power asymmetries that influence both the judgement and outcome of trusting relationships. As is the case with all relationships and judgements, we do not enter into trusting judgements and relationships removed from our identities and social standing. The power dynamics of racism and other forms of oppression are central to how, and with whom, we form trusting judgements. In



addition, these systems of power influence the need for, as well as the consequences of, trusting judgements and the degree to which society responds to violations of these trusting judgements and relationships. Catriona Mackenzie (2014: 7) argues that there are important distinctions to be made regarding the different types of vulnerability that exist in society. She argues there is a stark difference between inherent and situational vulnerability. Inherent vulnerability is vulnerability that we will all, as human beings, face at some point in our lives. It is the vulnerability we experience when we are infants, when we are elderly or in other situations such as illness or incapacity where we are dependent on others for assistance. This is the inherent kind of vulnerability that is simply part of the human condition (Mackenzie, 2014: 7). On the other hand, situational vulnerability refers to situations where one is rendered particularly vulnerable as a result of human decisions. Here Mackenzie (2014) echoes Crenshaw (2016). Situational vulnerability is not accidental, but rather it is caused or made worse by the social, economic, personal, or environmental situations of individuals or social groups. In other words, the situational vulnerability an individual faces is caused or made worse by the way in which power and oppression are structured in the society they live in. This means that an individual's vulnerable situation is caused or made worse by the fact that they form part of a group that is systemically disenfranchised, overlooked or actively oppressed by laws and/or prejudicial attitudes (Mackenzie, 2014: 8). This analysis is extremely important when trying to understand the creation and consequences of trusting relationships. When someone from a vulnerable (oppressed) group enters into a trusting relationship with another, there is often more at stake for them than there would be for someone with a more privileged socio-economic or political identity. The need for support is also greater but often such support is not available and thus the price of violation is higher. What we also see, is that impunity for crimes against such vulnerable groups is also typically heightened. This difference Mackenzie notes between situational and inherent vulnerability and the differential risks associated with trust, become important for our analysis of the case studies in chapter 4.

When we trust, there might also be 'unforeseen' vulnerabilities associated with trusting another person with our interests. This means that there are a set of risks that are anticipated but there are also risks that manifest unexpectedly and affect different people differently. For example, if a man and a woman who have matched on a dating site arrange to have their first in-person meeting, there is a different set of risks and vulnerabilities that each of them would be aware of during the period when trust is still being established. This is because situational vulnerability to sexualised and gender-based violence is unevenly distributed between the



genders in our society. The man is more likely to feel comfortable to meet at any place, at any time. In contrast, the women may be more sceptical and cautious. She would, for example, be more likely to meet in a public space that is familiar to her and would likely drive herself in order to prevent dependency regarding transport. Even though these two are engaged in the same initial phases of the trusting relationship, there are different vulnerabilities and potential risks at stake for each of them based on their socio-political standing. The potential risk for the woman is greater based on her positionality as a woman in South Africa and, as such, the nature of the trusting relationship is different for each. I return to this discussion of systemic vulnerability in section 4.1.1.2.

It is important to note, too, that trusting, or mistrusting, is neither all good nor all bad. Sometimes we trust too easily and thus run the risk of harm to ourselves and our interests because we did not gauge the person or situation well. Sometimes we trust people who should not be trusted or trust those who do not deserve our trust. Sometimes we trust too easily (Govier, 1998: 8). When we trust we take a chance, knowing that we are making ourselves vulnerable to possible harm. While we do deliberate up to a point, when we decide to trust we are always taking a chance and running the risk. Sometimes we are even unaware of the potential, unanticipated risks that we are exposing ourselves to, but we trust our own assumption that everything will be all right. We can never anticipate every single way in which an endeavour can go wrong. We can never know everything about another person so, at some point, our calculation reaches a necessary limit, and we take a ‘leap of faith’ towards trust. It is important to emphasise that this leap of faith is inherent in all trusting relationships and it is important to emphasise that without the social bonds made possibly by trusting relationships, we would become socially paralysed. These points need to be made in order to avoid blaming the victims of violated trust for excessive ‘naivety’. No one can or should have to live in perpetual distrust of everyone else.

There are also harms and risks associated with trusting or mistrusting too much or too little and distrusting all together. As briefly discussed above, there is an important distinction between distrust and mistrust which is set out by Patti T. Lenard (2008). Mistrust is the healthy dose of scepticism that everyone needs in order to navigate the world. It is the form of not trusting or refraining from trusting that we have indicated is always also at play whenever we trust someone with something. It forms a core part of our self-protective instinct. It allows one to question whether certain situations are going to lead to good outcomes and allows one to weigh

the positive and negative possibilities depending on the context. Mistrust refers to a cautious attitude towards trusting in others and entails a questioning mind-set where one considers the possibility that, and manner in which, things could go wrong (Lenard, 2008: 313). On the other hand, the continuous betrayal of trust can warp mistrust, healthy scepticism towards individuals and situations, into distrust, which is the inability to be vulnerable or take the necessary risk of trusting anyone else. Where mistrust is often situational and as stated, needed in everyday life to navigate trust relationships, distrust is the belief that no one can be trusted with anything. It is not negotiated based on certain circumstances or with specific people, it is indiscriminate. Mistrust is not overly anxious whereas distrust is riddled with overt cynicism and suspicion. Distrust induces anxiety and paranoia about others and their intentions. Where trust is a positive expectation of others, distrust is an indiscriminate negative expectation of others. People who distrust tend to be incapable of trusting because they believe they will constantly be let down, have their trust violated and that their vulnerability will likely be exacerbated (Lenard, 2008: 213). Paradigmatically, this sort of distrust forms in adults if their trust was repeatedly violated when they were a child. This can result in serious consequences for such a person's ability to form long lasting relationships and to be trustworthy themselves in turn. Where someone views the world through a distrustful lens and thus sees everyone as untrustworthy and people as only being capable of malice and manipulation, then that distrusting individual's ability to ascribe value or to extend trustworthiness themselves becomes compromised. Why be trustworthy in a world where it is not valued and will only be met with betrayal? Trusting no one can make one's life extremely difficult and dangerous; an individual is incapable of functioning in our complex world without trust in others and the institutions around us. When generalised distrust is rife, the foundations of a democratic society are at risk (ibid.).

To summarize, trust always involves risks: we risk making ourselves vulnerable to others, we risk someone possibly being malicious or not having our best interests at heart, or failing in terms of competence, or even through pure bad luck, and we risk being harmed precisely because we do not know if our trust will be upheld by others. In spite of this uncertainty, we weigh up these risks and often take a calculated risk to trust (albeit in varying degrees and towards varying ends which may be general or specific). When we trust, we have a positive expectation that, regardless of our vulnerabilities and the possible risks, our interests will be upheld, and our objectives will be met based on the fleeting or lasting bond we form with the person we trust. We do not of course always get these trusting judgements right. Being able to trust in another person even after disappointment, depending on the severity of the violation,

is essential to our well-being and our ability to function in the complex social world. In these moments of trusting, and re-trusting after (minor) disappointments, we are reminded that other people are human and can disappoint us, even in cases where they have the best intentions towards us. There are therefore risks associated both with trusting too much and with trusting too little. Both trust and mistrust are dependent on the instincts and experiences of the persons who trust as well as the scope and degree of the trust being considered. Radical problems emerge when mistrust becomes systematic and widespread, morphing into distrust in an individual or a society. This is because trust is indispensable for forming the social bonds upon which our quality of life depends. I continue to utilize and draw on these key concepts in unpacking the various spheres of trust that follow in this chapter. I also draw on these key concepts in the following chapter.

### **3.1.3. *Trust as Meaningful Communication***

According to Govier (1998: 8), trust in the third place involves meaningful communication in two ways. First, the very process of establishing trust requires meaningful communication. One must trust how parties engage and what gets communicated in anticipation of forming trusting judgement. Moreover, when we establish trusting judgements that involve high risks, we usually communicate, either directly or indirectly, about the needs and interests of the truster and the intention and competence of the trustee. Second, trust relationships form part of meaningful communication in that they allow us to situate ourselves in a complex social world. The narrative of the world around us and our place in it is relayed through meaningful communication that is premised on trust in oneself, others and the broader systems and networks that constitute our society.

Govier posits that when we trust another person, “there is a presumption of meaningful communication” (ibid.). This meaningful communication is characterised by honesty and transparency. Truthfulness and sincerity are some of the most important preliminary factors one considers before trusting another. A person’s words and demeanour become meaningless if he is untruthful or comes across as deceptive or manipulative. In short, when we trust in the sincerity of another, we are trusting them to be truthful and transparent instead of manipulative and deceptive. In deliberating whether or not to trust someone, we form judgements about their moral character. In general, we rely on them to give us a competent and sincere assertion of their intentions, and if we do not have evidence and reasons why we should not trust them, we tend to believe them. We do not trust without question, especially when the stakes are high,

and in instances where we do not have the luxury of time or extensive background checks, we simply evaluate the evidence available to us (sometimes this can be as limited as the friendly nature of an individual). We then tailor the degree, scope, and context of our trust based on our assessment of the available evidence (Govier, 1997: 68). In other cases, our trust is qualified and reflective; it is based on solid reasons and extensive evidence that are then used to inform our trust judgements.

We must be able to believe what another person tells us in order for us to trust them. We have to be able to believe that they are truthful and therefore trustworthy. In other words, we have to believe that what they say is what they mean and that they mean what they say (Govier, 1998: 8). We, in turn, have to listen to the trustee's account of their abilities and motivations in order to ensure that we trust wisely and appropriately. This account of ability and predisposition is extremely important, as discussed in the previous section. When we trust another, that is when we entrust our interests to them with hope and a positive expectation for the future, and we would not be wise to do so with the expectation that the trustee give more, or perform to a higher standard, than they are realistically able to. A certain burden is placed on the trustee. Where a trustee accepts something that has been entrusted to them, they essentially communicate a promise to the truster. In turn, if past experience allows, the truster should listen to the concerns of the trustee and gauge their abilities. In doing so, the truster can ensure that they do not unrealistically expect the impossible and set the trustee up for failure.

Furthermore, it is important to note that it is through interpersonal and institutional forms of trust that we have knowledge about the world we live in. Through the beliefs, sincerity, and competencies of other people whom we trust, we vicariously access the world. We are given a chance to see the world through the perspectives of other adults, friends and family members. We are able to benefit from their experiences and knowledge about matters which we have not experienced ourselves (Govier, 1997: 69). Trust operates as meaningful communication because, in order to understand and comprehend the complex world around us, we must rely on and trust in others and what they communicate to us about the world. This includes their own trust behaviours and their explicit comments about whom can be trusted. It is impossible for us to experience first-hand all the experiences we need to make informed trust decisions. A great deal of the human experience is that we trust in the knowledge that is shared with us by others on the basis of their own experiences of trust, whether honoured or violated. We rely on this to give shape to our own understanding of the world and to shape our own reality and trust

instincts. In this complex social world, it is impossible for humans to function without relying on trusting relationships to reduce the complexity of the world around us. We perceive the world to a large extent through the eyes of those we trust, especially in childhood.

Thus, it is through trust that we are able to piece together and understand the complex world around us. Niklas Luhmann (1979: 20) famously writes that, in a complex social world, we rely on the familiar to make sense of the complex and unfamiliar. However, our world continues to grow more and more complex. The complexity of the social world creates a growing need to plan, co-ordinate and predict the future. In turn, this increases our need to trust others (ibid.). For example, the neighbourhood WhatsApp group, which has become commonplace, is an attempt to plan, predict and feel safe through trusting relationships with others who long for the same things. On these groups, we inquire and inform one another about trustworthy builders and plumbers, and about routes safe for hiking. Communities coordinate in these groups to combat feelings of isolation, ill-preparedness, and fear. This is because trust reduces this complexity and allows us to function without necessarily having to know exactly what others are going to do next. We are able to trust in this reduction in complexity (for the sake of coordinated action) because we trust in certain people and certain social institutions. Govier (1997: 56) writes about how, in an attempt to trust the social world we live in, we constantly and inevitably have to depend on other people to relay aspects of the world we might not have experienced yet or are not knowledgeable about because we have not experienced them directly. To exist as creatures within a social world, we need to be able to trust the testimony of others in a general sense, even if we know on some level that there will always be a possibility of deceit and manipulation (ibid.).

Indirect sources of knowledge (not gained from our own direct experiences and interactions), thus necessarily have a profound effect on how we shape our own reality. Secondary accounts from our friends, family, colleagues and the media shape our personal and direct experiences of the world as well as our perceptions of the world and vice versa (our account of our own experiences does the same for others). Together, as a collective, we build the reality that is our social world. This is true for concepts of safety, power, and trust. We feel comfortable and safe when going to our local general practitioner (GP) because our neighbours, friends and families have been cared for by this doctor and thus he has a reputation of being trustworthy. The experiences of others are taken up by us and shapes our understanding of our own relationship to this doctor, and the medical profession more broadly. This assists in mitigating our fear of

the unknown and uncertainty about illness because we believe that this specific GP has taken good care of other patients that were in similar scenarios and will do the same for us. As a result, even if we have not been seen by this GP yet or have not suffered this specific illness before, there is an implicit trust established on the basis of their reputation and the experiences of others. In other words, we have created a world in which this doctor (and those who have vouched for him) can be trusted. We cannot possibly personally build up all the relationships of trust that we need to function in the modern world.

Miranda Fricker writes ((2007: 32) on the need for a degree of caution with respect to whom we trust, and how we trust, when we rely on others to tell us about the world, thus when we rely on others for knowledge about the world. She argues that, in establishing credibility claims about people, we must be careful not to rely on prejudicial stereotypes that may inform our understanding of who is trustworthy and who is not (*ibid.*). In trying to ascertain the credibility of another person, we must develop mechanisms to guard against prejudicial judgements. Not everyone who is different to us or who might look fearful or uncertain is necessarily deceptive or untrustworthy. She writes (*ibid.*) that it is often the case that we do not have the luxury of time or past experience to be sure of the motives, intentions, and sincerity of another. As a result, we very often fall back on the stereotypes we hold about whom should be trusted and whom should not be. We rely on our own experiences and predominantly draw the conclusion that those like us, and those portrayed in the media and greater society as privileged and reliable, are more likely to be sincere and thus trustworthy. I explore this caution further under ‘Interpersonal Trust’.

To summarize, meaningful communication is important in different dimensions of trust. Thus, when making judgements regarding which trusting relationships to enter into, we have to be able to trust in the sincerity and transparency of the communication of others, which usually precedes any actual judgements about trustworthiness. Additionally, our existing thick and thin relationships of trust provide us with meaningful communication about the world we find ourselves in. If we have previously experienced positive outcomes as a result of entering into trusting relationships (if our trust has paid off, in other words), we are more likely to feel affirmed regarding our place and sense of belonging in the world. Where we have trusted but this has been followed by negative outcomes and violations of trust, we might feel isolated and disconnected from others. Our ability to communicate with others through trusting

relationships is accompanied by a responsibility to be open minded and non-prejudicial when listening, engaging and trusting others who might not look or think like us.

### **3.1.4. *Trust and Time***

Above and beyond Govier's three components for understanding trust, a fourth component is imperative: the understanding of trust's relationship with time. I draw on the theory of Luhmann (1979) to make this case. In our attempts to trust others there are obvious time constraints. Thick relationships of trust take time to grow precisely because they are relationships that are cultivated over time per definition. Additionally, to trust is to interact with time: when one trusts, one draws on the knowledge of past experiences (one's own as well as those of others) in order to decide on the trustworthiness of a person in the present and speculate about possible future events and outcomes. Luhmann (1979: 10) draws on systems theory to try and unpack this dilemma and while I will not describe his entire argument, I would like to highlight the parts of his analysis which argue that trust crucially involves a temporal dimension. Trust is a consideration of the past, present and future. We consider our experiences of the past, as well as those of others we have heard of, and these inform whether or not we will trust a particular person in the present and to what degree we will extend our trusting judgements about that person into the future. When we trust, we make ourselves vulnerable and take risks because we decide to have a positive expectation of the future even though we cannot ever be absolutely certain of what is to come. It is impossible to predict the future but trusting particular people and social institutions means that we trust how those people and institutions are likely to react to us. Even if we are afterwards shown to have successfully predicted the future, it would still require trusting action and commitment beforehand, in the moment of making the decision, because prediction is about the unknown and the unknowable. Trust makes this initial commitment possible and, in that sense, situates us more firmly in the future (ibid., 25).

Trust transforms the future from something that overcomes us and happens to us as we await it passively into something that we can to some extent "tame" by planning for it, and by trusting others to fall in with those plans. This is essential for human well-being and flourishing. In a world where everyone has the free will to act how they see fit, there will always be endless possibilities that affect how we see and experience the world. The future holds an unbroken continuum of changing events, any one of which could influence how events actually unfold. We thus live in the present with the constant anxiety that the future could hold vastly different



outcomes to what we initially thought. As a result, we compare the past and present and try to project future possibilities as a way to reduce our anxiety regarding how complex and uncertain our futures might be. Our ability to trust is vital in allowing for this reduction of anxiety. Trust allows us to reflect on our past experiences and trust the people and institutions around us to act in a semi-predictable manner which will allow us to use our experiences to predict a future involving ourselves and others. Trust is therefore crucial for extending social bonds through time.

In every account of trust, where we try and gauge and assess trustworthiness, there are time constraints (Hardin, 2002: 173). These constraints limit the number of thick relationships of trust an individual can build over the course of their lifetime. It is easier to trust family and friends well (wisely) when we have spent years getting to know them. Time allows us to build rich and nuanced trusting relationships with these people. For example, as an adult child who has built up a rich trust relationship with her mother over a lifetime, I might know that I can trust my elderly mother with most aspects of my life but should not share with her my specific concerns about the welfare of one of her grandchildren, because she is not emotionally resilient enough to handle such trust well. It allows us to cultivate trust and finely gauge the extent and scope of our trust in others. Through past experiences, we are able to ascertain how these individuals will react when we make ourselves vulnerable and trust them in particularly important scenarios. Our past experiences show us whom we can call on and when, and about what, depending on the risks and needs of a specific context. For example, over time it becomes clear to us that a parent can be trusted to assist us quickly if we are stuck on the side of the road because of car troubles, whereas a close friend can be more wisely trusted to give advice after a painful romantic break up. When we are unable to rely on experiences that have been built over a long period of time, we have to rely on other factors such as a person's social role and what others and the media might have said about them. The constraint of time limits the number of people with whom we form thick relationships of trust. As a result, in order to navigate our complex social world, we have to be able to rely on the institutions and systems that govern us so that there is predictability in our actions and plans. We also need to be able to form quick, thin trusting judgements about people, even where the risks are minimal, without large violations of trust occurring as a result.

In summation, the role of time is a necessary component for the exposition of trust as a concept. Trust has an intimate relationship with time insofar as we use past experiences to help us decide



which trusting relationships to enter into and these relationships, in turn, help us mitigate our anxieties about the endless possibilities of the future. Our ability to form thin and thick trusting relationships are based on this intimate relationship.

### ***Conclusion***

As part of my philosophical investigation of the concept of trust, I have started off by presenting four essential or key components of trust. In sum, trust entails positive expectation which is informed by the perceived competence and motivations of those whom we entrust with aspects of our futures, interests, and vulnerabilities. Trust is involved in our attempts to know the world which we live in. Trust is at the forefront of our communication with others, particularly when we speak about the world and our experiences in it. In this way, trust is an instrument of meaningful communication and engagement, and in turn, meaningful communication is essential for the building or establishing of trust. Trust allows us to mitigate our anxieties regarding the complexity of the future. When we trust in the present, we do so on the basis of our past experiences. Furthermore, it is the trust which we establish with other individuals and with institutions in the present that allows us to feel more confident in the endless possibilities that could arise in the future, thereby reducing our anxiety about possible future events.

These components, as put forward by Govier and Luhmann, provide the parameters for the conditions in which trust exists and govern how and when it is cultivated. I have also explored several considerations which influence the extent of trust or mistrust. One should not only be either trusting or mistrusting. Neither trust nor mistrust are purely good or bad and we have to be able to utilize both, in varying degrees, in order to navigate the complex social world. I also explored the important distinction between mistrust and distrust, the latter being a comprehensive attitude about the nature and structure of the world one finds oneself in. Those who distrust do not believe that others are trustworthy and likely do not see the benefit in being trustworthy. This attitude of comprehensive distrust usually develops precisely because the distrustful person extended trust to others in the past, only to have their trust repeatedly and severely violated. Fully distrusting individuals are likely to become dysfunctional because they are no longer capable of accessing or sustaining the social bonds that facilitate every social interaction that make up human existence.

In the following sections, I explore three different types of trusting relationships. I unpack theories of interpersonal trust, self-trust, and institutional trust and lay out the different

considerations and factors that influence each of these types of trusting relationships. Under each of these themes, I explore the harms that follow violations of these trusting relationships through a feminist philosophical lens.

### ***3.2. Interpersonal Trust***

Having outlined the basic conditions for trust to be cultivated, I will now unpack and explore the concept of interpersonal trust. Interpersonal trust refers to the trusting judgements and relationships that occur between two or more people. This theme is two-fold. First, I look at the stages and factors that facilitate interpersonal trust, as posited by Govier (1997). I also look at how our ability to trust well or wisely grows with age and experience and the factors which are taken into consideration when we form interpersonal trusting relations with other people. These stages of trust are important for the application of the three case studies in the next chapter. The second part of this theme looks at the possible harms that arise out of violations of these interpersonal trusting relationships. Here, I briefly revisit the harms that result in mistrust and distrust. Additionally, I explore the writing of Fricker (2007) where she theorizes about testimonial injustices that follow as a result of prejudicial attitudes in interpersonal communication and which affect epistemic trust, or trust for knowledge. Throughout this thesis I explore how the three stages of trust influence and are affected by trusting relationships. I also look at the value of each specific form of trust.

#### ***3.2.1 Stages of Interpersonal Trust***

The stages of interpersonal trust that Govier distinguishes are as follows:

- i. Innocent Trust: This type of trust is most prevalent in our formative years. It is naïve acceptance, especially of what adults convey to us, that is most common when we are children (Govier, 1997: 66). Typically, doubts about possible maliciousness or deception do not even arise. It is because of this that children especially need to be taught and sensitized to the possibility that adults (even those that are family or friends of the family) may have malicious intentions towards them. These insights strongly suggest that because of the significant dependencies that characterise the start of human life, innocent trust is a kind of default attitude which remains in place unless it is violated.
  
- ii. Implicit (default) Trust: As we grow, we develop implicit or default trust where we tend to trust unless there is a particular reason not to (ibid., 67). At this stage (adolescence), we are more suspicious than young children and depend on certain cues to guide us in our judgements

about other people's trustworthiness. If a person's behaviour illustrates them to, for example, be biased, pushy, dishonest, or manipulative, we take this as an initial reason to be cautious, not trust them fully or not trust them at all, depending on the severity of these behavioural indicators. For example, if a teacher belittles another pupil in our presence we may become more guarded about trusting that teacher with information because we fear that they may use that information to hurt us too.

iii. Reflective Trust: This form of trust requires us to think critically about the trustworthiness and reliability of an individual. When we enter adulthood, we abandon our innocent, child-like naivety. Reflective trust is healthy and negotiated. Govier (*ibid.*, 68) writes that, when considering the trustworthiness of a person with reflective trust, one contemplates the "speech acts" through which that person communicates and presents to others.<sup>20</sup> These considerations are now, in the adult stage of trust, more explicitly reflected upon to determine the trustworthiness of an individual. Fricker (2007: 32) supplements this and argues that, when making credibility claims about people, we must be careful not to rely on prejudicial stereotypes that inform our understanding of who is trustworthy and who is not. Of course, considerations of sincerity, transparency and communication are weighed up against our own needs, when we are considering trusting another in order to pursue, and the risks of trust. Someone may be trustworthy and competent in certain situations but not necessarily in others. For example, my friend may be extremely supportive of my academic dreams and pursuits but, due to her own past experiences and the fact that she too easily concedes in disputes in her own romantic relationships, cannot be trusted to give helpful relationship advice. Given my prior knowledge in this regard, I would trust her insights about postgraduate programmes but would not trust her dating advice.

These three stages of trust are largely based on a model or idealised depiction of someone's life and background. They are based on a presumption that someone was born into a loving home, with parents, family and friends who provided stability and predictability and thus allowed trust to grow in this way. In contexts where this is not the case, for example, in a case where a young child was molested by a close family friend, these stages of trust are severely contorted. In the typical stages of trust, an adult would still tend to trust implicitly where they feel safe and there is low risk, even though they have gained the ability to use reflective trust.

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<sup>20</sup> Recall earlier themes of sincerity, transparency, and communication.

However, if a child did not grow up in a typically trustworthy (stable, safe and attentive) household, and had to endure and overcome debilitating trauma, it is likely that the ability to trust implicitly or naively could be compromised. This could cause the individual to be less trusting and more suspicious of others and their ability to trust the broader social world they find themselves in may be compromised. When children experience sustained and repeated violations of trust, there is very little incentive to remain trusting. As previously mentioned, these adults are more likely to become untrustworthy themselves; they are less likely to be sincere, transparent, and communicative because these attributes have not been valued and met with positive outcomes or experiences. These individuals are more likely to be guarded, secretive and even manipulative.

When we trust reflectively, we do not do so without question. We take various factors into account and then negotiate and renegotiate our trust to varying degrees, depending on the context (Govier, 1997: 68). We look at the factors and information available to us and then we take the leap and trust with a positive expectation if the benefits of doing so outweigh the risk. Reflective trust is thus not uncritical, rather it is likely to be qualified, partial and context specific. I illustrate this in the next chapter when applying the case studies to the exposition of age and stages of trust.

### ***3.2.2. Factors that Influence Interpersonal Trust***

In addition to the stages of trust that we move through as we mature into adulthood, there are also factors that we take into consideration to determine the extent to which we will trust or mistrust another person. Trust and mistrust are not mutually exclusive; instead, the relation between them is constantly negotiated and renegotiated, depending on the circumstances and the person. Recall, mistrust is healthy scepticism and, like trust, is needed in everyday life. Mistrust, like trust, is highly context specific; it is an attitude which can be provisionally taken or negotiated and it is malleable. Both trust and mistrust are negotiated to various degrees.

In this section below I lay out some of the considerations which Govier (1998: 121) argues play a central role in forming interpersonal trusting relationships. I explore the factors that influence and determine these formations below. In reflecting on the reasons that an individual, Thandile, may have for trusting or mistrusting another individual, Ahmed, we may consider the following factors:

i. Information: What does Thandile know directly about Ahmed? Who or what are her sources of information and what do they say about Ahmed? How reliable are her sources? What has Ahmed done that Thandile knows about?

There are a variety of relevant sources of information that influence and affect interpersonal trust (Govier, 1998: 122):

- a. Direct personal knowledge: this is personal experience (where Thandile has encountered and observed Ahmed).
- b. Indirect personal knowledge: where another person has encountered someone and tells us about that person (in this case where Sarah has encountered Ahmed and has told Thandile about him).
- c. Book knowledge: where we have read about what another person has said or done; this nowadays typically includes knowledge and impressions gained through social media.
- d. Knowledge based on a social role: depending on the social or professional role that someone fulfils, one makes assumptions about the person. This includes the role that social media plays in constructing certain assumptions or narratives around certain social roles. Thandile knows that Ahmed is a doctor and thus makes assumptions based on this. For instance, she assumes that Ahmed is generally knowledgeable about diseases, that he is caring and that he looks after the best interest of his patients and other people he encounters.

Depending on the context, some of these considerations will carry greater weight than others. In other scenarios, they might not be as relevant. For example, in the establishing of a thick relationship of trust, a strong and extensive foundation of direct personal knowledge and maybe even indirect personal knowledge (what others have said or experiences from this person) play a great role.

A second factor Thandile will consider, apart from her sources of information listed above is-

ii. An exceptions clause or “unless” clause: This is the active, reflective interpretation of actions, statements, and information which might counter our willingness to trust another person. We tend to trust others unless, or until, there is reason for suspicion. In other words, we trust unless we get the impression that what appears to be on the surface is not as it seems and there is cause for suspicion. Trust is the adult person’s default attitude towards others, and this is what makes an active social life possible in the first place. In everyday life, we trust implicitly unless someone gives us reason not to and then we employ reflective trust, which

might entail qualified trust. In our example, Thandile may consider the likelihood of her sources having misconstrued or misinterpreted Ahmed's actions and statements. She would also consider whether Ahmed's actions suggest that she should trust him or not.

The "unless" clause is important because it reminds us that, in order to make reliable judgements about trust and trustworthiness, we have to consider the possibility that a person's action and statements might not mean what we presumed (Govier, 1998: 130). In the context of trusting judgements, this clause is important because it maintains a default standard that people are trustworthy and sincerely intentioned towards us. When we remain aware of this, we are alert to the possibility that there may be a misunderstanding and miscommunication but, even if this is the case, we maintain the belief that, in all likelihood, it was not done maliciously. This prompts us to be fair towards the other person because we give them the benefit of the doubt and this, in turn, prevents us from (and cautions us against) making ungrounded assumptions (ibid.).<sup>21</sup>

Willingness to be open to alternative interpretations and new evidence has to be balanced against our confidence in our own judgements and ideas about what is happening around us. In certain circumstances, we have to encourage confidence in our beliefs<sup>22</sup> and weigh them against alternative interpretations without dismissing our own perceptions of the world around us. For example, in programmes with young children which are aimed at combatting child grooming and sexual assault, young children are encouraged to affirm and voice their opinions of discomfort around potential or actual perpetrators. The schoolteacher who insists on her pupil staying behind for her "to check" that they are wearing underwear, should not be trusted. Children in these programmes are encouraged to place confidence in their own sense that something is wrong or that something makes them feel uncomfortable. Children are taught to trust in their own sense that something is wrong and that an adult who tries to persuade or insist

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<sup>21</sup> The "unless" clause applies to those that mistrust too often. The "unless" clause cautions us to not distrust too easily and forever. We have to be able to trust others as well. There is a tentative dimension to trust and mistrust, both are ever present, and both are required for us to navigate the world effectively. When we trust, our vulnerabilities are at stake and when our trust and our interests are in jeopardy, we are able to revoke our trust and be mistrusting going forward. It is through these judgement calls that we are able to hone in on our skills and abilities to judge whether or not to trust the same person or someone else in the future. Where we have trusted or mistrusted wisely and with success, our ability to value and gauge trust becomes better. If our judgements lead to situations where our trust is violated, we tend to lean toward mistrust and are likely to be mistrusting if a similar situation arises in the future. This might be the case even where individuals do not warrant mistrust from us.

<sup>22</sup> I discuss confidence in our beliefs and judgments in the following theme in this chapter under 'Self-Trust'.

that it is anything else should not be believed or trusted (ibid.). Because it is so easy to exploit and violate young children's innocent trust, they have to be taught to be extra vigilant or less trusting than they would normally be.

As adults, we attempt to balance our confidence in our own beliefs about the world with the possibility that our interpretation of the world might be wrong. When we do this and fall short, by trusting too much or being too mistrusting, we adjust our trusting behaviour, either only towards a particular person or situation or in general. It is a matter of learning which persons or social roles to entrust with which of our vulnerabilities. When we fall short by mistrusting too much (bordering on distrust), we may be incapable of relying on others, thus making it impossible for us to fulfil one of the most basic human functions. In trying to get from point A to B, one has to trust. For example, if we have to catch a bus, we would need to be able to trust the driver to bring us safely to the desired destination and, at a minimum, we need to trust that the other passengers are not out to harm us by, for instance, holding the bus hostage. This encompasses "public trust". Violations of this sort of trust can be devastating and a particularly harrowing example of this sort of violation was the attack and murder of a 26-year-old physiotherapy intern, Jyoti Singh, who, upon returning from the cinema, was attacked and raped by six men, including the bus driver, in New Delhi (Al Jazeera Media Network, 2017).

But let us return to Thandile who must decide to what extent she trusts Ahmed. Based on the above-mentioned factors, we can say that Thandile has to form an overall judgment of Ahmed. These factors and considerations all play specific roles and we are likely to give more weight to a specific factor or consideration over another, depending on the situation. For example, when being introduced to a peer in a social setting, we are more likely to trust a friend's account of that person in comparison to knowledge we may be able to garner from the peer's social role. In this case, if a friend has a bad opinion of Ahmed, Thandile is more likely to be hesitant to befriend him, regardless of his social role as a doctor which would otherwise lead us to assume that he is likely to be caring and empathetic.

In addition to the information that we obtain from another person, our own attitudes, emotions, and beliefs also play a crucial role in the establishment of trusting judgements and relationships. Often we make a judgement regarding a person's motives, and character, and thus their trustworthiness, based on our beliefs and emotions, our interpretation of that person's statements and actions, combined with our own sense of need or vulnerability in the specific



circumstances (Govier, 1998: 134). If attitudes of complete trust or overt mistrust towards an individual are to be warranted, a strong foundation of evidence is required; in the majority of cases, we trust conditionally and in a limited way. Very often strong attitudes of trust or mistrust towards a specific individual are based on extensive past experience, where our trust was either constantly validated or repeatedly violated. These experiences lead to strong attitudes that result in an overall negative or positive image of that person (ibid., 135). If we mistrust someone severely, we have the greatest suspicion of that person's motives and actions generally, and specifically in relation to us. We think the person is more likely to be malicious and manipulative than not and we tend to interpret everything that person does through this negative view of his or her character. On the other hand, if we trust someone almost completely, we are extremely confident in our positive expectations regarding what they will and will not do and we believe that we can depend on them in any circumstance, in a sort of open-ended manner (ibid., 125).

While thick relationships of trust are cultivated over a long period of time, thin relationships of trust very often rely on some of the considerations (direct and indirect knowledge, knowledge based on a social role, etc.) set out by Govier (1998: 188), as discussed above. In cases where we have to make a split-second decision to trust or mistrust a relative stranger, we rely on these indicators as well as our own beliefs regarding what indicates trustworthiness, which may be based on stereotypes. For example, we would draw from the reputation certain professions or company brands have in our society or what we see on the news or in pop culture to inform our decisions about whom should and whom should not be trusted. It is important that we interrogate these sources and how they inform our decisions and trust judgements. As stated before, the way in which we form, or refrain from forming, trusting relationships, especially with strangers, is not independent of the social problems and power dynamics that exist in society. I have so far given a detailed analysis of the nature of interpersonal trust, and in the next section turn to the harms that follow violations of interpersonal trust. I also will look at Fricker's analysis of testimonial injustice, which occurs when we base our trusting judgments on our prejudices and preconceived stereotypes about people.

### ***3.2.3. Harms of Interpersonal Trust Violations***

There are two broad harms that typically result from the violation of interpersonal trusting relationships. The first was also discussed above under 'Trust as Risk'; to trust involves a risk of our trust being violated which can cause harm where this trust is violated to such a degree



that our positive expectations of trust shift to attitudes of mistrust or worse distrust. I briefly touch on this harm again here. The second type of harm that I explore below is the harm that occurs as a result of prejudicial and stereotypical notions about individuals, or groups of people. These factors can hinder the cultivation of social trust between individuals. My discussion of the second harm refers to Fricker's work on testimonial injustice (2007). This sort of injustice occurs when a listener denies a speaker an opportunity to communicate their experiences and opinions because of stereotypes and prejudicial bias that they have about the speaker and what the speaker claims to know. This violation of trust in interpersonal relationships (often thin trusting judgements) leads to a broader systemic problem of epistemological injustice.<sup>23</sup>

Let us now turn to the first harm of the violation of interpersonal trust. Recall in section 3.1.2., I discussed the risks and vulnerabilities that accompany trusting judgements and relationships. Under this section, I also spoke of the pitfalls that may follow from overly trusting, mistrusting and even distrusting attitudes towards others. In this section, I will focus on what happens when one's interpersonal trust is violated, and this results in mistrust or even distrust. When a truster, who may have their own particular set of vulnerabilities, takes the risk of trusting another person only for their trust to be violated, it can result in an altering of the truster's perspective of whom and how often, and how extensively they trust, and a shift in their perception of the world and their place in it. This shift towards mistrust or, even more concerning, distrust, usually comes about as a result of repeated violations of (interpersonal) trust. Violations of trust can result in renewed scepticism and some degree of suspicion about similar scenarios or people in an attempt to avoid the risk of another violation of trust.

For instance, where someone betrays our trust by breaking a confidentiality agreement, we are less likely to trust them with a secret or sensitive knowledge going forward. This could also cause us to be more cautious about sharing particularly sensitive information with others. For example, Sarah's sister (Amy) confides in her that she is pregnant. Amy has experienced miscarriages in the past and as a result is hesitant to tell extended family members. Amy tells Sarah because she trusts Sarah, and Sarah promises not to tell anyone else. If Sarah then tells

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<sup>23</sup> Once again it should be highlighted that the different kinds of trust and their violation are deeply interconnected. The distinctions I make between interpersonal, self, and institutional trust remain mere heuristic devices. Violations of specific forms of trust are typically cross-cutting. For example, a violation of my trust by an employee of Company X, makes me mistrustful of all members of Company X. In a violation of interpersonal trust with a stranger for example it could have consequences for how we view other strangers. It could also affect our own sense of self and could even affect the way we view our position in society.

their aunt, whom she knows is the family gossip, Amy would rightly be more hesitant to disclose sensitive information to her again. Amy could also decide that it is not only Sarah that she will not trust with this sort of information but that she would, going forward, not disclose this information to anyone else, other than her partner, until she is ready. She may still believe that Sarah is trustworthy in other situations. Amy could, for instance, trust Sarah to look after her new-born child, but she may not trust her with information that is sensitive again. In this way Amy has renegotiated her trusting judgements about others. I now turn to the second harm.

Previously, I argued that we depend on others for much of our knowledge of the social world. This is why violations of interpersonal trust have epistemic results and thus can affect more than just our relationship with the person who betrayed us. I will now discuss this sort of epistemic harm with reference to Fricker's *Epistemic Injustice: Power & the Ethics of Knowledge* (2007), which provides an account of epistemic injustice. Fricker argues that there are two types of epistemic injustice. The first is testimonial injustice and the second is hermeneutical injustice. Fricker argues that testimonial injustice is essentially an injustice that a speaker suffers if a listener interprets what they are trying to convey through the lens of prejudice. In other words, the listener's prejudice against the speaker results in the speaker being seen to have less credibility than she would have had if there was no prejudice (Fricker, 2007: 4). Because there are many forms of prejudice, Fricker focuses on the notion of identity prejudice as a label for prejudices against certain groups of people. Identity prejudice is a social type of prejudice which gives rise to testimonial injustice when a speaker suffers a deflated credibility, or credibility deficit, with regards to the testimony she gives and the truth claims she makes, because of the prejudice(s) that listeners have regarding her social identity. An example of this is when girls and women are not believed when they say they are interested in sports or anime, because of the belief that these things are not feminine. In this example, prejudicial stereotypes about what people who are coded as feminine can enjoy (sexism) mean that the listener has already decided what interests the speaker holds and what she can credibly claim to be interested in. Fricker (ibid.) puts it plainly: testimonial injustice can be understood as "*identity-prejudicial credibility deficit*". This definition captures the various types of testimonial injustices which may interplay with other forms of oppression and prejudice. This sort of situation is harmful for the speaker, because the speaker is likely to suffer both on an interpersonal level initially and, when stereotypes and prejudices about certain groups are widespread, they are likely to give rise to injustice on institutional levels (ibid.).

In unpacking testimonial injustice, Du Toit (2018:10) provides an account of Fricker's work. Du Toit (2018: 10) writes that Fricker argues that accuracy and sincerity (which resonate with the competence and good intentions conditions for trust building) are essential virtues that ought to be presented by the speaker to increase epistemic trust in their testimony. In other words, accuracy (like competency) and sincerity (like good intentions), are important for anyone who wishes to be considered trustworthy. This epistemic trust is necessary in order to listen, hear, and share information and knowledge (ibid.), in other words, for all of us to benefit from the social bonds that fulfil epistemic functions. In order for epistemic trust to grow and properly stabilize over time (recall the temporal aspects of trust), dispositions of accuracy and sincerity must be encouraged, cultivated, and fostered in individuals. However, these dispositions on the part of the speaker are not enough; epistemic trust, and thus reliable knowledge sharing, is also largely dependent on the skills and dispositions of the listener in the communication situation (ibid.). In a communication situation, the listener ought to avoid two extremes: the listener must not be too gullible and accept whatever is presented to her at face value (and without a critical lens) but the listener must also not be too sceptical (unable to consider realistically whatever is presented to her). Even in the most basic interactions, the listener needs to be "open to truths offered to them ... without being credulous of testimony that is in fact false" (Fricker, 2007: 114). This means that listeners must be able to listen in an engaged manner to what is being presented to them without being gullible if what is being presented to them is absurd or obviously untrue.

In doing so, every listener essentially needs to make a credibility judgment in every instance of communication. Fricker (2007: 10) argues that because humans are social creatures that usually fall into some sort of grouping, there is always something which is considered as positioned on the outside of the groups we identify with. As a result, credibility judgements are typically reserved for those speakers who are of the same group as the listener. This leads listeners to base their credibility judgements on social stereotypes of others (Du Toit, 2018: 11). Du Toit (ibid., 12) writes:

One may also say that the human tendencies towards deception, concealment and prejudice all threaten to undermine the project of epistemic trust necessary for the most basic human society to function, and so they demand to be countered or corrected for (Fricker 2007: 118) with the virtues of sincerity and accuracy on the part of the speaker

and with what she calls the virtue of testimonial justice on the side of the listener or receiver of information offered.

Thus, testimonial justice on the part of the listener requires an overt anti-prejudicial sensitivity to the context of the exchange. This includes an awareness and sensitivity regarding the social relations between the speaker and the listener, the social climate (as it relates to power) and to where this conversation takes place. In turn, the speaker is likely to be sensitive to how she is being received and to whether epistemic trust is developed and furthered (Du Toit, 2018: 13). Testimonial justice promotes the collective good because it includes cultivating and building epistemic trust and “sharing in a pool of reliable knowledge” (ibid., 14). When this shared pool of knowledge is compromised or contaminated, it disadvantages the epistemic knowledge of the individual (the listener) and leads to an overall dysfunction of the epistemic system, practice of trust building and knowledge sharing. Fricker (2007: 43) writes:

Further, the fact that prejudice can prevent speakers from successfully putting knowledge into the public domain reveals testimonial injustice as a serious form of unfreedom in our collective speech situation.

This draws on the idea that epistemic injustice does not only harm interpersonal interactions but rather that testimonial injustice is systemic in nature. Where epistemic injustice is very pronounced, and groups of people (e.g. poor Black women) are systematically treated by public institutions as having a credibility deficit, it can prohibit those with grievances from taking up space in broader social settings. This also includes being excluded from creating or participating in the political arena, which is where advocacy and systemic change can take place to relieve these grievances and to challenge the systems of power that allow them to fester.

Fricker points (2007: 43) out that testimonial injustice per definition cannot be accidental and it cannot arise as a result of innocent mistakes. Testimonial injustice only occurs where there is an unfair credibility deficit ascribed to the speaker. This happens because of the listener’s unchecked prejudice against “some aspect of the speaker’s social identity” (Du Toit, 2018: 15). Harms that result due to common prejudices against someone’s social identity are often multi-fold: these harms are often connected to other forms of injustice through different dimensions of social activities. There are three primary harms associated with testimonial injustice:

- (i) Testimonial injustice results in the inability of the speaker to be heard.
- (ii) Testimonial injustice is an injustice that targets the speaker's capacity to reason. Capacity to reason is imperative to one's human value and so when it is undermined, one's very humanity is undermined. When prejudices cause the unfair dismissal of the speaker, it amounts to a dismissal of their capacity for knowledge. It is in essence, a dismissal of being acknowledged as full humans who are worthy of respect, being believed and given epistemic trust (Du Toit, 2018: 16).
- (iii) The third primary harm follows from the second harm. Fricker (2007: 44) lists two examples of follow-up harms. The first is the practical disadvantages resulting from epistemic injustice, such as not being considered for an employment opportunity or not being treated fairly in a court of law. The second is epistemic harms that follow from testimonial injustice namely that the speaker is likely to suffer self-doubt and diminished self-confidence in their general intellectual abilities. The speaker might lose the courage to learn and thus disqualify herself from venturing into the knowledge-gaining and sharing process. This might stifle or prohibit the furthering of educational development for the speaker. The speaker is less likely to develop intellectual virtues such as intellectual courage (Du Toit, 2018: 16). When we converse, communicate, and contribute to the pool of knowledge, we do so with epistemic trust that allows us to provide our own perspectives and to share, engage and exchange ideas with others. In this we find a way to settle ourselves; we settle our ideals, sense of self and our social identities in the world (Fricker, 2007: 53).

Recall that Fricker (2007: 1) presents two types of epistemic injustice, the first is testimonial and the second hermeneutical. Hermeneutical injustice occurs when "a gap in collective interpretive resources puts someone at an unfair disadvantage when it comes to making sense of their social experiences" (ibid.). She qualifies that hermeneutical injustice takes place prior to testimonial injustice. Fricker (ibid.) writes that "testimonial injustice is caused by prejudice in the economy of collective hermeneutical resources". This points to the fact that while testimonial injustice might be interpersonal, it occurs within a system which is characterised by hermeneutical injustice and systems of power and domination allow for injustices that then deeply impact individuals. Fricker (ibid., 55) argues that those with power have the appropriate experiences, understanding and even language to make sense of their social experience. The powerful are constantly in the process of dominating interpretations of the shared world (Du

Toit, 2018: 19). Those who are made powerless might struggle considerably more to make sense of the shared world that they find themselves in. In fact, dominance of the information, knowledge, and collective sense-making resources works to effectively keep the powerless from making sense of their experiences, and from meaningfully sharing these experiences in the shared social world. When those who are hermeneutically marginalised face injustice, it is the result of a certain social structure that excludes the marginalised from powerful circles of epistemic trust.

### ***Conclusion***

In conclusion, when we consider forming interpersonal relationships of trust, we weigh a variety of factors as part of our decision-making process. However, because we often lack extensive experiences and data about other people (especially the many strangers we meet daily), we are largely influenced by our own and our groups' attitudes and beliefs about what kinds of people are trustworthy. Our biases and prejudices are thus most prominent in the quick decisions we make regarding trusting relationships. In order to do justice to the importance of trusting relationships, we have to be able to deliberate over whom to trust while also being very aware of how our biases may influence or taint our judgements. The social order around us is filled with intricate power dynamics and complex identities. As a result, when we decide on whom to trust and how to trust well (scope and context), we do so with the knowledge that, while we are trying to navigate and build our social world, others are trying to do the same. We also should acknowledge that we rely on one another's efforts to gain knowledge about the social world. After a history of oppression and conflict, where one group of people was systematically disenfranchised and the other empowered, interpersonal trust must be built through hyper awareness, recognition, and commitment to dismantling prejudicial stereotypes and their pernicious effects upon our shared epistemic projects.

### ***3.3. Self-Trust***

I have argued that, when deciding to trust another person, we are guided by positive expectations that include consideration of the other person's competence, motivations, and actions. The greater the vulnerability and the risk involved, the more cautiously we will consider and deliberate the trustee's actions, competence, and motivations (Govier, 1998: 91). We trust in varying degrees: we may trust someone only in a specific context, or we can trust someone completely, with all aspects of our lives and with all of our vulnerabilities. We trust our hairdresser to make sure they cut or dye our hair to our liking. We trust an airline with our

lives when we board a flight. Often, although not always, trust involves some past experience with the individual or institution we intend to trust. Trust affects the way we interpret and understand another person's actions and statements and vice versa. All these aspects of trust are also true for how we trust ourselves. Self-trust refers to the trust we have in ourselves. To trust oneself is not simply a metaphorical expression; we trust ourselves in the same way we trust others (ibid.). When we trust ourselves, we have positive expectations about our own motivations and competence and our ability to secure the future that we have planned for ourselves. It is important to realise from the outset that the different forms of trust are interconnected and in this sense, we never make a trust judgement without also implicitly invoking our self-trust.

This section consists of two parts: the first half includes an exploration of what self-trust is and why it is important. Here I rely on Govier (1998). I then move on to a discussion of Doris Brothers' (1995) three dimensions of trust. Two of the three dimensions speak to our ability to trust in our self and others regarding ourselves as being trustworthy. I explore the link self-trust has with our ability to function and situate ourselves in the world. I look at how self-trust is cultivated through our own appraisals and the appraisals others make of us. The second half of this section explores the possible harms associated with violations of self-trust. Here, I draw on Kristin Borgwald's (2012) analysis of Keith Lehrer and Miranda Fricker's work. I also unpack the work of Govier (1998), Debra Bergoffen (2018) and Susan Brison (2003) in this regard.

When we trust others, we believe in their basic integrity: we believe that they are honest, dependable, and transparent and this makes us willing to rely on them. When we trust ourselves, we must have the same belief about our own motives and competencies. We must trust that, when we take risks, we will act in a way that takes our vulnerabilities into account, without, however, the fear of risk incapacitating our agency completely. We must be able to trust our own trust judgements. This means that we have to be able to trust that our judgements will not put us in harm's way or result in us putting our trust in people that we should not have trusted to begin with. We must develop over time, our capacity to trust wisely and must learn to increase our self-trust proportionally. As argued above, our ability to trust well grows with age and experience. Part of trusting well is neither giving too much or too little credibility to another. Our ability to trust in our self and in our own judgement is the same. From a young age we learn to develop trust in ourselves and, as adults, we have a natural tendency to



understand ourselves in a positive light. We believe that we are capable, competent, and likely to make realistic and appropriate judgments and decisions. Like other forms of trust, self-trust is cultivated, exists to varying degrees and is often context specific. No individual trusts him or herself completely and in every context, and nor should they. For example, we might trust ourselves to pick up the groceries needed for dinner, but we may not necessarily trust in our abilities to negotiate with a bank robber. The next section considers the importance of self-trust and thereafter I lay out the dimensions of self-trust before I turn to an analysis of the harms that result due to violations of self-trust.

### ***3.3.1. Importance of Self-Trust***

Self-trust plays an essential role in the development of who we are to ourselves and, in turn, whom we might be to others (our own trustworthiness). Once we have established a realistic sense of self that we trust and can rely on, we tend to take our self-trust for granted. A realistic sense of the self takes our motivations, competencies, and our limitations into account. It is only when self-trust is missing or undermined that we notice its absence. We usually go about our days without giving self-trust much thought until a scenario arises where we do not trust ourselves to act or make judgments, or when we suffer harm because of an unwise trust judgement. During incidents where we lack or lose self-trust, we become aware that the normal (default) attitude is to trust ourselves (Govier, 1998: 92). After a particularly traumatic encounter or event where we made a judgement that resulted in harm befalling us (or others we care about), our self-trust tends to be shaken and we have to actively work to regain our sense of self-trust. An example of this process is learning to trust oneself when driving again after being responsible for a car accident. As a more extended example, imagine that young Susie feels elated that Jennifer, the most popular girl in school, has invited her over for a sleep-over with the rest of Jennifer's friends. Susie accepts the invitation and packs her favourite pyjamas. At the sleep-over, Jennifer and her friends taunt Susie and mock her pyjamas. As a result of being treated badly by Jennifer and her friends, Susie realizes that she made a terrible judgement call and should have never accepted the (now obviously insincere) invitation. This insincerity speaks to a lack of good motivations and intention towards her.

We trust ourselves to make decisions that might be regarded as mundane, in that they are associated with day-to-day activities, but these decisions are reflective of our confidence in our ability to navigate a complex social world. We trust ourselves and our ability to make trust judgements that serve our interests well and this, in turn, allows us to function well in society.



We trust ourselves to board the correct bus to take us to work, to know when it is safe to cross the road, to follow a recipe and so on. Govier writes that “we believe implicitly that we are able to do these things” (ibid.). Our trust in our own abilities is formed against the backdrop of a particular environment: we can typically speak the language of those around us, we are understood by others, we know our own names and addresses, and we can navigate the world and find our way back home. Because we believe ourselves to be sane and competent, we can have an implicit, basic, and core trust in ourselves and our own abilities in an environment that we see as familiar and consistent.

As previously stated, we become more aware of issues of self-trust - both that we trust ourselves through default and that our trust in ourselves might be damaged - when we are challenged, and our ordinary self-trust can no longer simply be assumed. Of course, it is in these circumstances where we have to respond regardless. For example, I implicitly trust in my ability to drive to the grocery store and do my monthly shopping. However, if I suddenly find myself in the midst of an armed robbery at the shop, I might be momentarily paralysed because I do not trust myself to navigate the new set of challenges safely. In this situation, I am very much aware of my absence of self-trust precisely because it has been called into question. I know with clarity that I do not know what to do next. After we experience a crisis, such as an armed robbery, we are likely to spend time considering what self-trust is and why it is important. We become far more reflective about how self-trust operates: we have to consider what is presented before us, make judgements, make decisions about possible actions to take and then take those actions (ibid). Removed from these crisis scenarios (where self-trust has been compromised), we also have a very generalized concern about the shape, form, and range of our unique self-trust. In order to be autonomous beings, we have to undergo this process of deliberation and action and clarify our self-trust to ourselves.

If we make decisions in tandem with another, that person should not drown out or exclude our voices and concerns. When we are not secure in our values, capacities, and motives, meaning that we lack self-trust, we may ‘lose’ ourselves too easily and suppress our own judgement. We could bend too easily to the suggestions and criticisms of others, yield too readily to social pressures, or become unable to use our own initiative to overcome obstacles (ibid., 93). Without self-trust, it becomes extremely difficult, and sometimes impossible, to make effective decisions and thus continue functioning as an autonomous being in a social world. Self-trust is always necessary but becomes especially pertinent when a person must decide whether they

can depend on themselves to act in their own best interests in a difficult scenario. For example, someone who struggles with substance abuse may struggle with self-trust. An addict that has recently worked towards sobriety may have to reflect deeply every single day on whether or not they can trust themselves to cope with the emotions and stress of everyday life without turning to a substance for relief (ibid.).

We draw on self-trust in varying contexts. We may be called upon to trust our perceptions and observations, our interpretations of statements, our actions, emotions, feelings, responses, values, memories, intuition, common sense and will, and our competence and flexibility with regards to the unexpected. We may rely on self-trust in contexts that involve physical strength, balance, or eyesight; or in contexts that require more abstract strengths such as moral courage or aesthetic judgement. When we have self-trust, we have faith that, overall, we are competent individuals who can respond efficiently to demanding situations (ibid., 94). The concept, as Govier develops it, is thus a very basic or fundamental part of life which colours every dimension of the individual's life. That being said, to lack self-trust in specific contexts and situations is not necessarily a crisis. For example, I find myself in an art gallery with an art historian, I may happily and confidently acknowledge my own limitations when it comes to an aesthetic judgement and this would render me more open to learning from her far richer expert knowledge. No one can realistically be completely confident in their abilities all the time, a lack of self-trust (a healthy dose of self-mistrust) at times allows us to avoid rash decision-making and proceed with greater care and to depend on others instead, with good outcomes. Limitations in our self-trust also allow us to accept responsibility when we have faltered or misjudged situations.

Bestowing upon oneself a credibility or competency excess can result in failure or harm to ourselves or others. For example, I want to hang up a heavy wall mirror, but I am overly confident in my physical ability to independently hold the mirror. Instead of gauging my own limitations and asking my partner for assistance, I proceed alone but then struggle with the heavy weight and, as a result, the mirror falls and shatters. I end up with deep cuts from the shards and require stitches. In this case, it is clear that my self-trust was misplaced. If our self-trust is too strong it can prevent us from cooperating with, or appropriately relying on, others, and even on being trustworthy in the right ways. As with interpersonal trusting judgements, one can never have complete, perfect self-trust. In fact, the moment of hesitation and acknowledgement of a limited perspective mostly leads to better outcomes. Some well-placed

mistrust of oneself is needed. For example, if I know that I am forgetful, I will not necessarily trust myself to remember things without writing them down. I realistically mistrust myself to remember and I manage my mistrust by using lists and reminders or asking someone else to hold me accountable. This is healthy, well-placed mistrust in the self and its limitations. We are still fallible: we will forget, misinterpret, over- or underestimate ourselves. There will always be risks. We remain exposed to our own failings, even though we might be better able to predict our own actions compared to the actions of others. We still run the risk of harm if we fail to do what we trusted ourselves to do (Govier, 1998: 95).

### **3.3.2. *Dimensions of Self-Trust***

Doris Brothers, in her book *Falling Backward* (1995), provides a philosophical and psychoanalytical account of trust, which specifically focuses on how trauma disturbances disrupt self-trust. I will draw on some of the concepts and analysis which Brothers provides in her discussion of self-trust as well as Govier's analysis of Brothers' work. Brothers argues that there are three dimensions of trust (1995: 35). I will focus on the two that speak to self-trust. The first is trust in others (for example, Yusuf trusts Sadi to look after his car). The second is viewing the self as trustworthy in matters which concern others (Yusuf trusts himself to act in a manner that protects or promotes Sadi's interests). The third is trust in oneself (Yusuf trusts his own attitudes, actions, and ability to act in his own best interest). The second and third dimension of (self) trust, illustrate how the self is constituted. We are able to define and develop our sense of self through the appraisals others make of us (and our trustworthiness) and the appraisals we make of ourselves. I refer back to this below, in section 3.3.3. where I discuss Susan Brison's (2003: 59) account of the autonomous and relational self. I view the second and third dimensions as forming part of a deeply personal, reflective, and introspective account of the self (Govier, 1998: 88).

Brothers argues that "self-trust is the glue of self-experience" (1995: 31). Self-trust and the trust we have in others form a dynamic and an interconnected relationship. We draw on the affirmation and validation of others to help us build our self-trust in a realistic manner. Our self-trust is based on our own accumulated experiences and the experiences others have of us and with us which are reflected back to us. In turn, our self-trust influences how we interact with others and the world. If we are able to navigate the world with a firm conviction that we can judge and evaluate our capabilities adequately, then we are more likely to move through the world with confidence and reassurance that we will act in our own best interests, with just

the right mix of trust and mistrust, boldness and caution. When this happens, our actions affirm our own beliefs and desires. Where we act in accordance with those beliefs and desires and do not allow others' desires to take priority over our needs our sense of self (specifically our self-trust) is cultivated and grown through our interactions with others *and* how we act towards ourselves.

A firm conviction in our sense of self means that we will be able to identify instances where others are trying to take advantage of us or where they over- or underestimate our capabilities. Govier (1998: 89) writes that to trust oneself is to “see oneself as a person who can cope and function in the world, a person who does not need to be monitored, guided, advised or controlled by others”. This means that a person with self-trust is not a person without flaws but rather one who trusts in their ability to respond to crisis in a healthy, self-confident way (albeit not always perfectly). To have self-trust is to trust in one's judgement, to stand firm with conviction and to take responsibility for whatever misjudgement one might make. Brothers (1995: 59) argues that self-trust requires self-acceptance. If we have self-trust, we have faith in our self and we believe in our competence (recall the discussion about competence and intention in section 3.1.). We believe that we can control ourselves and make reasonable judgments under varied circumstances, in both our own and other people's interests. We believe we have the necessary self-confidence, competence, and adequacy to act and are hopeful about ourselves, our actions, and prospects for the future (Govier, 1998: 89). Similar to trust in others, self-trust involves a positive expectation of how we will behave in the future. Below, I am guided by these arguments presented by Brothers (1995) and Govier (1998) to explore the possible harms in cases where our self-trust is compromised, undermined, or violated.

### ***3.3.3. Harms of Self-Trust Violations***

Under this section, I provide a feminist account of the harms that typically follow the violation of self-trust. First, I look at what it means to have self-trust violated. I draw on the work of Govier (1998) as she writes on the effects of lack of self-trust. Second, I analyse how this can occur on a continuous or systemic level. I explore how Kristin Borgwald (1997) describes the undermining of women and girls' self-trust in a patriarchal world. Lastly, I unpack and explore the work of Brothers (1995) on how sexual violence undermines self-trust, as a precursor to the analysis of the case studies in chapter 4. I briefly look at Debra Bergoffen's (2018) feminist

metaphysical account of the self and shame. I also unpack Susan Brison's (2003) assessment of how sexual violence has the capacity to shatter self-trust.

To lack core self-trust, or to mistrust oneself generally, is serious cause for concern. We have to be able to trust ourselves and believe that we are reliable and dependable individuals who do not usually need to rely on others to make decisions for us. To trust oneself means that they believe they have the power to make decisions and interpret their own memories and actions. When we lack general confidence in our own ability to observe and interpret events, remember and recount and deliberate and act, the consequences are so grave that it threatens our ability to be autonomous moral agents with basic self-respect, self-esteem and self-confidence (Govier, 1998: 94).

In contrast, absolute self-trust is often destructive to one's ability to foster a healthy sense of the self and establish interpersonal trusting relationships. *Reasonable* (realistic) self-trust requires continuous and consistent re-appraisal of our motives, abilities, and actions. This appraisal<sup>24</sup> should take into consideration feedback from our friends, family and colleagues and evidence of our own shortcomings and strengths. In this way, self-trust, like trust in others, is based on a plethora of experiences that build on each other to foster and cultivate trust. Self-trust should not prevent us from reflecting on the criticism, suggestions and advice provided by others. It should also not prevent us from learning from these critiques and suggestions where we see fit. Reasonable self-trust does not mean that we should not depend on others, rather it gives us confidence in our ability to judge how and when and how much to rely on others. It does, however, mean that we have a solid and enduring sense of self that is built through a sound foundation of self-trust and self-valuing (ibid., 98).

Govier (ibid., 90) unpacks how a lack of self-trust diminishes personal autonomy. She argues that if we do not trust ourselves, we are incapable of judging, deciding, and choosing for ourselves, we are incapable of being functioning, independent and autonomous beings in the world.<sup>25</sup> Being able to trust oneself is essential to a person's mental health and determines our very survival (ibid., 88). When we severely lack self-trust, we allow (or even need) other people

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<sup>24</sup> Recall the previous discussions on trust and time. Trust has an intimate relationship with time. Time allows important feedback which allows us to re-appraise and re-negotiate our trusting relationships.

<sup>25</sup> Recall our previous discussion about the credibility deficit. When we are incapable of trusting ourselves, we suffer a credibility deficit in our own eyes, which affects how we observe and trust in our own capabilities.

to take charge of our life and decisions. If we are unsure about what our character, intentions and actions should be, we tend to be swept away by the whims and wants of other people. It is only with realistic self-trust that we can authentically conduct ourselves and take charge of our own lives. This means that we are not subjected to the domination or expectations of other people or social trends (ibid., 111). In certain cases, a lack of self-trust can lead to incompetence and confusion about who we are, and a certain kind of paralysis. This sort of domination, no matter the duration, further impacts on our ability to trust ourselves. Adults who had been treated cruelly or dominated in their childhood can go on to build strong self-trust, but this is generally only possible after they have experienced being trusted by others and put a great deal of effort into alleviating their feelings of powerlessness and vulnerability. We need external validation, namely, to be trusted by others, in order to trust ourselves.<sup>26</sup> By showing that self-trust is crucial to a successful and autonomous life, and that self-trust and trust in others are deeply mutually intertwined, Govier (ibid., 111) has opened up an important avenue in our understanding of what is at stake, and what is lost, when severe (self-) mistrust results from traumatic experiences.

Kristin Borgwald (2012) draws on the theories of Keith Lehrer (1997) and Miranda Fricker (2007) to argue that women who suffer under patriarchy have their self-trust continuously undermined and violated. Borgwald (2012: 69) argues that Lehrer's book, *Self-Trust*, has feminist ethical applications. Borgwald (ibid.) lays out Lehrer's position that an "inability to evaluate and attain justification of one's emotions is an epistemic failure that leads one not to act on one's own aspirations and desires and treat those desires as if they did not exist" and argues that this has unexcavated implications for the feminine self. Where patriarchy compromises women's selfhood, it has detrimental effects for the quality and capabilities of women's self-trust. Borgwald argues that there is value in applying Lehrer's theory on self-trust to the patriarchal nature of care ethics. She argues that feminist ethics, particularly care ethics, have become "the leading form of sentimentalist ethics" (2012, 70). Borgwald (ibid.) applies Lehrer's (1997) work on self-trust to Carol Gilligan's (1982) work on feminist care ethics and writes that:

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<sup>26</sup> I come back to this relational sense of self below where I discuss Borgwald, Bergoffen and Brison. I continue to draw on this concept in the application of self-trust to the case studies in Chapter 4.

Women's voices, meaning their own interests, desires, and needs, are ignored by others. The patriarchal pressure and expectation for women to be selfless, to always focus on caring for others and not themselves, creates this neglectful attitude towards women's happiness and wellbeing.

By applying Lehrer's theory on self-trust to scenarios involving patriarchy, Borgwald (ibid.) argues that women do not/are not able to primarily value their own desires and needs and instead prioritize the needs and values of others over their own.

In patriarchal societies, women and their needs and desires are not valued. This disrespect is internalized and results in women not trusting their own judgements. "Women's self-neglect and lack of self-care stems from their lack of self-trust brought on by patriarchal oppression" (ibid.). Women do not trust themselves to be either well-intentioned or capable of serving their own best interests. Patriarchy undermines and silences women's voices causing "women's cognitive deference"<sup>27</sup> (ibid.). If a woman does not trust her own judgement, she will find it extremely difficult to assert it. A systematic ruination of self-trust over her lifetime by patriarchy is a profound problem for women and it can go so far as to cause an epistemic deficit in women's lives. Borgwald (ibid.) draws on Lehrer's epistemology of self-trust which alludes to this problem. In particular, he writes that if a lack of self-trust jeopardizes how one judges and regards one's own needs and desires, it essentially compromises one's ability to reply to the "external world sceptic" (Lehrer, 1997: 5). In this regard, Lehrer (ibid.) writes:

The life of reason begins with self-trust ... I cannot reply to an external sceptic nor to the sceptic within my own head without self-trust. Suppose a sceptic within or without says to me, 'You are ignorant and foolish in all things, you know nothing, and are wise in nothing.'

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<sup>27</sup> While Borgwald (2012: 70) does not specifically define what "cognitive deference" refers to, I read this as relating to deference theory in general and meaning that one opts to rely on the knowledge and actions of others. In a positive example of this, we defer to experts when our laptop is broken. Negative examples would be where inequality and prejudice create a social deference whereby power structures determine who is allowed to be in charge or have influence. When Borgwald talks of women's cognitive deference in a patriarchal society, I understand this to mean that women who suffer under a patriarchal society are conditioned and taught to not value their judgement, needs and desires and that this in turn sabotages women's ability to listen to their own judgements and cultivate self-trust. As a result, women are more likely to defer cognitive authority to someone else, particularly men and others who support and promulgate the interests of patriarchy.



Furthermore, Lehrer writes that “the first step in the life of reason is self-trust. I trust myself in what I accept or prefer” (ibid.). This indicates that we cannot meaningfully engage with ourselves and the world around us without self-trust. But more than not being able to function effectively, we will be at risk of being trapped in a life without conviction because we cannot trust our own actions and judgements or our own perception of the world around us. As a result, we may not be able to meaningfully participate in intellectual life with ourselves and with others. We are thus excluded from credibility judgements as well as the knowledge sharing and production discussed in the previous section (3.2.3), where I investigated Fricker’s concept of epistemic injustice.

Women who are conditioned under patriarchy typically do not value their own judgements, preferences and needs. They do not believe that they are “worthy of their [own/self-] trust concerning what they accept” (Borgwald, 2012: 70). When women are mistreated under patriarchy and taught to be infinitely selfless and thus self-mistrusting with regards to their own needs, they cannot even trust their own anger towards their mistreatment. According to Borgwald (ibid.) ...“although this mistreatment makes them angry, they do not trust their judgement enough to see that they are angry and have reason to be angry”. This leads to epistemic failure, where women suffering under patriarchy are made to doubt themselves regarding their own judgements and desires and are instead encouraged to further perpetuate cognitive deference and selflessness. This example illustrates how self-trust is a precondition for effective social agency and selfhood.

Borgwald (2012) (like Govier, 1998: 87) explicates the interconnectedness of self-trust and autonomy. Borgwald refers to the term “epistemic personhood” as the ability to “think autonomously, reflect on and evaluate one’s emotions, beliefs and desires, and to trust those judgements rather than deferring to others” (Borgwald, 2012: 73). Selfless women, women who live under patriarchy and do not prioritize their own desires and needs, see their objectives as secondary to the needs and desires of others. Patriarchal oppression has instilled this self-mistrust. Women who lack epistemic personhood generally do not mistrust themselves with regards to their judgements on how to care for others. Rather, they do not trust their judgements concerning their *own* welfare.

So far, I have discussed the systemic disruption of girls’ and women’s self-trust under ‘normal’ patriarchal conditions. These problems deepen exponentially when girls or women experience



sexual trauma. Where our self-trust might be distorted or disrupted through trauma, our sense of comfort is too. Our world could disintegrate. Our self-experience can seem fragmented and create the impression that the interpersonal world is an unsafe and unsure place. Brothers (1995: 35) examines the disconnection and disturbances among women who had been victims of incest or rape. Her study involved twenty women. In the interviews, Brothers aimed to determine the levels and nature of self-trust in the women who had been assaulted. Brothers questioned them about their attitudes and likely responses to certain circumstances (Govier, 1998: 89). How would they respond to disappointment? How much confidence did the women have in their own self-control? What were their expectations regarding career and relationship success? How would they respond to the opinions others have of them? In asking these questions, Brothers (1995: 59) assumes that to have self-trust means that one is able to gauge problems and trust in one's capacity to cope with and respond to these. Brothers (*ibid.*) writes that the scope of harms of violations of trust can have very different consequences depending on how self-trust is affected. Disturbances of self-trust can occur when the effects of betrayals are turned inwards, changing our relationship with others, but also altering the relationship we have with ourselves. Disturbances in self-trust may be "expressed as either insecurity, indecisiveness, and self-doubt, or as a blind-confidence and, thus, in the performance of acts of great risk and daring" (*ibid.*). Disturbances in self-trust can result in the inability to determine whether others are trustworthy or not. As a result, it can lead to disillusionment and cynicism regarding authority figures or at the other extreme, it may lead one to seek out cult-like affiliations or organisations where "allegiance to a self-trusting leader is stressed" (Brothers, 1995: 59). This highlights the two contrasting ways in which healthy self-trust can derail and become either complete distrust or complete dependency. Both of these distortions differ from healthy self-trust.

In her study, Brothers found disturbing results: the young women who had been victims of incest or rape experienced severe disruptions in their trust relations, most especially in the areas of self-trust (Govier, 1998: 89). Even though these women were all violated by men, they blamed themselves for what had happened, devaluing themselves and having a diminished view of their own judgment and competence (*ibid.*). Ordinarily there are a variety of responses that victims may have in the aftermath of sexual violence. Not all women who are victims of sexual violence blame themselves, but it is not uncommon for victims of sexual assault to turn the violence and shame of sexual assault inward and ask, "what could I have done to prevent

it”.<sup>28</sup> In cases of male-on-female sexual violence in patriarchal conditions, many victims blame themselves because they believe that they should have done something to prevent the assault. This process, while extremely common, disrupts how victims of (sexual) violence see themselves. Blame turns inwards and victims tend to blame themselves, their judgements, and the value they attach to themselves as independent beings, which results in severe disruptions of their self-trust.

In her paper titled ‘The Misogynous Politics of Shame’ (2018) Debra Bergoffen argues that while social, cultural, and legal definitions of rape and sexual violence have adapted and changed overtime, one thing has remained constant: victims of rape are shamed. She argues that this shame plays an enabling role in humiliating and degrading victims of rape. Narratives about rape become about the victim’s fault and not the actions and crimes of rapists (Bergoffen, 2018: 1). In a feminist-phenomenological critique of Maurice Merleau-Ponty (1987) and Jean-Paul Sartre (1984), Bergoffen (2018: 3) argues that patriarchal politics of vulnerability and shame work to render the feminine body as an object in the gaze and world of another, rather than a subject of her own world. She is critical of Sartre’s (1984: 341) ‘The Look’ where he describes himself sitting on a bench, alone, and feeling that he is the free centre of the world until he is observed by another person strolling in the park. He then experiences himself as an object of another’s world and feels his freedom slipping away. Bergoffen (2018: 4) argues that Sartre uses masculine pronouns for both himself and the stroller, which indicates that only equals can return the other’s gaze in a reciprocal way and thus, in a world of sexual inequality, the dialectic of The Look falls flat. Women are conditioned to avert their gaze as a survival instinct and Bergoffen (ibid.) writes that this behaviour is indicative of shame. Women who openly look upon men in public spaces, are seen as ‘inviting’ harassment. Often, a woman’s gaze is used as justification for violations of freedom which include rape and murder. This is supported by Helen Moffett’s paper titled ‘These Women, They Force Us to Rape Them’ in which rapists were interviewed. Moffett (2006: 138) reports:

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<sup>28</sup> Govier seems to lean towards the notion that women suffer more than men from a fragile or compromised sense of self-trust. She writes “it strikes me as plausible that self-trust is more of a problem for women than for men; however, I have no good empirical evidence for this claim” (Govier 1998:219). While she does not defend this claim, as mentioned above Borgwald argues and unpacks how patriarchy can “cause women to believe that they are not worthy of their trust concerning what they accept, specifically acceptance of their anger over their own mistreatment” (Borgwald, 2012: 69). Patriarchy conditions women to value the desires of others over their own needs, in doing so women do not trust themselves.

He followed this astonishing disavowal of male agency by explaining that he and his friends picked [for gang rape] only those women who 'asked for it'. When asked to define what this meant, he said, 'It's the cheeky ones - the ones that walk around like they own the place, and look you in the eye.'

Bergoffen goes on to argue that shame is experienced within specific value systems. For shame to be reprehensible, the onlooker must have the power and moral authority to look upon and assert judgement, shame and repugnance onto the actions of another (2018: 4). In the patriarchal world, men, and other women who support patriarchal ideals, hold these positions, and thus have the power to assert shame and humiliation against women who have been raped. These figures of authority actively work to insert shame into the lives and actions of women. It is through policing behaviour regarding dress-codes and sexuality that patriarchal figures of cultural and moral authority can utilize social ostracization against girls and women who 'misbehave'.

Bergoffen (2018: 5) highlights that there is a deep connection between shame and the self, she writes:

None of this will be easy, especially when a woman has been subjected to debilitating shame—a self-destructive form of shame that, unlike the episodic shame depicted by Sartre, forms the horizon of a person's life. As the target of debilitating shame, she is overwhelmed by the other's judgmental look.

The connections between patriarchy, sexual violence, shame, and the self are extremely important. A woman's ability to trust herself in a patriarchal society is compromised by constant and systemic attacks against herself and her embodiment. Shame and sexual violence within patriarchal society work to undermine and shatter women's sense of self and ability to trust their judgements, intentions, motivations, and desires.

Susan J. Brison, in her book *Aftermath: Violence and the Remaking of a Self* (2003), talks about her journey as a philosopher trying to make sense of her own brutal and violent rape. Brison was on vacation in Grenoble, France with her husband when she decided to go for a stroll in the countryside. During this stroll, she was brutally attacked from behind, beaten, strangled and raped and then essentially left to die in a ravine (Brison, 2003: 2). In her book, Brison (ibid.,

9) writes about how this assault (as is often the case with sexual violence) left her feeling disorientated and removed from the world. In line with many feminist accounts of the self, Brison (ibid., 59) argues that the creation and embodiment of our self is rooted in relationality.<sup>29</sup> We create and affirm our self through our experiences of, and with, other people. Our experiences are built on the foundation of a social world created by others.

Brison writes "... trauma, the kind I discuss in this book, not only shatters one's fundamental assumptions about the world and one's safety in it, but it also severs the sustaining connection between the self and the rest of humanity" (ibid., 40). She says that trauma (sexual trauma especially) shatters one's ability to position oneself in the world – a world that one previously thought one belonged in. Trauma of this nature shatters our sense of self from our relationship with our mind (which can lead to the development of depression) and body (which can result in post-traumatic stress disorder, panic attacks and anxiety attacks) (ibid., 44). Brison (ibid., 39) explains further that the study of trauma reveals how the three aspects of the self - the embodied self, the self as a narrative and the autonomous self - show that the self is inherently relational, and that trauma shatters these interconnected forms of the self, the social bonds that constitute and carry the self. Brison is not alone in this account of how rape shatters the sense of self of the rape victim. Louise du Toit (2009) describes how "rape destroys one's world in relation to self and others" (2009: 92) and can lead to dereliction or homelessness. The victim's world which she shared with others, in which she was an active participant and intentional subject becomes a hostile world in which she is reduced to an object (ibid., 94). In her doctorate thesis 'Understanding the Harm of Rape' Lindsay Kelland (2012: 119) wrote of how rape survivors commonly experience direct harms to their personhood and agency through "shattering and fragmentation". 'Shattering' refers to the destabilisation or destruction of a victim's sense of herself (certain fundamental beliefs she had of herself) and the world she lives in, including her safety and belonging in this world. 'Fragmentation' refers to the challenges victims face to their self-identity. This includes alienation from their own body (ibid., 120).

With regards to the embodied self, Brison (2003: 41) writes that she had a very different relationship with her body after the assault. Her body became a source of constant inspection and critique and an endless source of vulnerability which was constantly under speculation. Her body was now perceived as an enemy (ibid., 44). To focus on the mind instead of the body was virtually impossible because the aftershocks of trauma were so acutely felt in both, a shared

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<sup>29</sup> Recall Brothers account of trust in the self and the self as trustworthy mentioned above.

experience with different manifestations. Regarding the self as a narrative, Brison writes that a major obstacle for victims after an attack is “reconstructing a self in the sense of a remembered and ongoing narrative about oneself” (ibid., 49). In other words, the survivor is shattered in terms of their ongoing narrative about themselves in the world. The new shattered self is tasked with recreating and re-envisioning a future for herself – a self who is no longer her previous self. Brison (ibid., 50) also writes that often one’s emotional repertoire can be shattered by trauma. This means that one’s relatability to others and nuanced grasp of one’s own emotions can become disjointed.

Lastly, trauma deeply disturbs the autonomous self. Very often trauma can starkly change aspects of one’s personality. For instance, where one was previously trusting of others, trauma can make one strictly distrusting of others. This is also illustrated above: when the relation to the self becomes distorted, it becomes completely dependent on others or completely distrusting of others. Brison (ibid., 60) writes that if one’s true self is a reflection of one’s will, then there is stark difference between the pre-attack self and the self that is created during and after the trauma inflicted as a result of (sexual) violence. Whereas the self was (prior to assault) responsible for decision-making and action-taking and was where blame and praise were situated, it now becomes disjointed. One of the first “autonomy-undermining symptoms” (ibid., 59) is the post-traumatic stress disorder (PTSD) that is experienced by survivors after an assault. PTSD can manifest in severe physical distress as well as overwhelming emotional changes. The loss of control in response to triggers of the assault “alters who one is, not only in that it limits what one can do (and can refrain from doing), but also in that it changes what one *wants* to do” (ibid., 60).

It is against this shattering of these (interconnected and relational) aspects of the self that victims of sexual violence have to reconfigure, or remake, themselves. In cases of sexual violence occurring within a (thick) trusting relationship, these disruptions of the interconnected relational self are even more pronounced. There is a difference between Brison’s attack, which was a ‘stranger rape’, and sexual violence that occurs in the context of a prior trusting relationship. The dynamic in the latter is very different because the self was entrusted in making a judgement and decision about someone else only to have that trust violated. In the latter case, the effects felt by the autonomous, interconnected, and relational self are compounded, because of the pervasive culture of victim-blaming that already exists in our society. As is the case with

all violent encounters, those looking in from the outside (neither perpetrator nor victim) ask about who did what to whom but, unlike other forms of violence, in cases of sexual violence, third parties try and rationalize sexual violence by questioning the perpetrator's motivation (ibid., 11). This line of questioning very often leads to a shift in focus away from the actions of the perpetrator to the actions of the victim, narratives regarding ways that victims should have tried to prevent their rape are prolific: "if only you weren't wearing that or did not walk alone or did not leave the house or did not go to work or did not take public transport or...".

In reflecting on her own rape, Brison (ibid., 7) writes

... my assailant, who had confessed to the sexual assault, was claiming I had provoked it. As serious as the occasion was, and as much as it hurt to laugh, I couldn't help it, the suggestion was so ludicrous. Could it have been those baggy Gap jeans I was wearing that morning? Or was it the heavy sweatshirt? My maddeningly seductive jogging shoes? Or was it simply my walking along minding my own business that had provoked his murderous rage?

Victim-blaming and shaming result in a more profound sense of betrayal and much deeper self-doubt. It is this blame and shame that can create a disjuncture between the self that made the decision to trust the perpetrator prior to the attack and the self that has to recover from the violence the perpetrator inflicted. This can fundamentally change the relationship one has with one's self. Not only is there an alienation from the self that formed the trusting judgement but there is also alienation in terms of (un)deserving blame being assigned to the self that can lead to internalized hatred and resentment. Where blame and shame are assigned to victims of rape, blame and shame insert secondary traumatization and humiliation into the victim's self and personhood.

### ***Conclusion***

In conclusion, I have illustrated that there is a deep interconnected relationship between interpersonal trust and self-trust. Self-trust largely determines our ability to form trust judgements about others, and vice versa – repeated successful trust judgements about others build our self-trust. Self-trust is imperative in our ability to function as individuals and in relation to our interactions and trust judgements of others. I have illustrated how self-trust is cultivated over time: both through our own appraisals of ourselves and through our interactions

with others and their appraisals of us. I have also argued that the violation of self-trust has far reaching implications for the self. Violations to our self-trust diminish the quality of our lives because they jeopardize our ability to gauge and value our own needs and desires. Violations of self-trust that follow sexual violence can have an even greater effect on our ability to situate ourselves in the world. Where the self was once characterized by control, autonomy, and future-oriented narratives about how our lives should go, very often victims of sexual violence are left with a shattered self. The shattered self struggles to position herself in a world that has now become removed, foreign, unpredictable, and threatening because of the loss of a sense of what other people are likely to do or not do; thus, because of a profound undermining of our self-trust – trust in ourselves to ‘read’ the world accurately. Under the next section, I look at the understanding and construction of institutional trust, the third and final type of trust I will discuss in this current chapter.

### ***3.4. Institutional Trust***

In this section, I will focus on institutional trust and the conditions that are required for this form of trust to manifest. In this regard, I employ the theories of Mark E. Warren (2018). I explore the difference between first-order and second-order institutional trust. I will look at how institutional trust plays a role in the functioning of (new) democracies through an exploration of contemporary theorists of institutional trust. To explain why institutional trust matters in democracies, I employ the theories of Mark E. Warren (2018), Patti T. Lenard and David Miller (2018), with a special focus on Claus Offe (1999). I explore the specific roles generalized and particularized forms of trust play in (new) democracies. In the last section of this theme, I explore the harms that arise from violations to institutional trust. I explore the relationship between institutional trust and legitimacy within the democratic state and for that I utilize the theorization of Bradford *et al* (2018).

#### ***3.4.1. The Concept of Institutional Trust***

Institutional trust is one of the most complex and important forms of trust. It is important on a macro-level because democracies would be unworkable if citizens did not trust social and political institutions. The rights and privileges afforded to citizens, such as personal security and freedom, welfare support and so on, are markers of a developed democracy and would be compromised, if not impossible to maintain, without institutional trust. On a micro-level, when trust is institutionalized, it enables trusting relationships between strangers. It can even be transferred among people if one person “inherits obligations for trustworthiness from another”



(Warren, 2018: 88). For example, when we trust a hospital to perform an important surgery, we trust in the surgeon that we have directly corresponded with but our trust in the hospital also extends to strangers involved in the surgery, such as the nurses, anaesthesiologist, surgical technician, physician assistant and so on. In this way our trust in the hospital administration is extended to the individuals who work for them. When these individuals perform surgery the trustworthiness (integrity and competence) of the hospital is transferred to them and ideally reflected by their actions. Where institutionalized trust is cultivated, fostered and sustained, collective capacities grow and are multiplied through associative relationships which can expand throughout societies. However, institutional trust is complex both conceptually and in terms of the judgements it requires.

Claus Offe (1999:66) writes that to trust an institution denotes trusting the individuals that hold office within that institution. Offe (1999: 66) writes that institutions are often a work in progress, they are incomplete and contested and might (within a specific margin) be ambiguous. Institutional rules are never strictly static, inflexible, and unyielding. Rules can never foresee every scenario and provide for all contingencies. Additionally, institutional rules leave plenty of opportunity for chancers to attempt to cheat or subvert the rules. As a result, the decisions made, and action taken, by those who are mandated to uphold and enforce the rules play as big a role as the rules themselves. This is true even if these decisions solely pertain to the guarding, enforcing, interpreting, and keeping in place of these rules (*ibid.*, 67).

Offe contrasts conventions and the law (as they pertain to the rules and codes of conduct that govern institutions) (*ibid.*). Conventions are “strictly self-enforcing”: everyone expects other people to comply with them and nobody is incentivized to go against them (*ibid.*). An example of this is how individuals maintain eye contact when greeting each other. In contrast to conventions, institutions rely on trust (as opposed to self-enforcement) and trust in anonymous mechanisms of institutions is “justified only by trust in the voluntary compliance of those actors to whom the rules apply” (*ibid.*). Even if the rules and codes of conduct for institutions were solidified within a legal framework, the law is not self-enforcing. Having specific supervision and enforcement mechanisms and rules solidified within a legal framework does not automatically ensure self-enforcement/execution by agents of institutions. The rules embedded within the law require a normative standard of fairness and correctness to function. This means that even when these rules are applied, it should be done in a manner that it is consistent, non-discriminatory, and impartial (*ibid.*, 68). Institutions are able to draw in with loyalty when



institutions practice substantive equality (ibid., 69). Meaning that where actors of a certain institution act in a manner that upholds fairness and equality, then ordinary citizens are more likely to trust and be loyal to these actors and the institution they represent. In this way, institutions can convince ordinary civilians to trust actors who embody the vision, rules, and decisions of the institution itself. What makes institutional trust different from social trust is that the subjects involved in institutional trusting relationships are often strangers to one another. This anonymous other (trustee) is a representation of the trusted institution and can be replaced at any time by another trustee that will also be an anonymous other. The truster will very likely know nothing about the trustee other than the fact that the trustee holds a specific title or office within a specific institution. The truster will have to consider and infer a trust judgement based on the overall features of the institution (Warren, 2018: 88).

### **3.4.2. *Conditions for Institutional Trust***

While there is a broad understanding of what trust is, there are various subtypes of trust. As discussed above in section 3.1.1. interpersonal trust judgments are evaluated by looking at the motivations (intentions) and competence of a trustee. In the case of institutional trust, we gauge the warrant and competence of the institution itself – its trustworthiness - when deliberating whether or not to trust it. Warren (2018: 81) argues that both warrants and publicity are essential conditions for institutional trust to exist. When we trust, how do we know that the person we are trusting is trustworthy with regards to the goods and interests that we have entrusted them with? The truth is that, in trusting relationships, we have no control over how the trustee conducts stewardship over the goods and interests we have entrusted them with. We do not need to know. This is precisely the point of trust; there is an unavoidable risk component, as discussed in section 3.1.2. What we do require in a trusting relationship is the belief that those whom we entrust with something of interest to us are competent to perform this stewardship and that they have goodwill towards us and our interests (ibid.). This kind of knowledge, which enables trusting relationships, refers to the warrant necessary for a good trust judgement.

We first turn to warrants as the basis for institutional trust. Warrants are necessary in all of the trusting judgements that we make; they range from interpersonal warrants about the intention and competence of another person - A knows that B is competent and well-intentioned - to distant, institutional forms of trust where A knows that B holds a position in an institution and that “predicts competence and incentivizes alignment” between A and B’s interest (ibid.). We

gauge the warrant of an institution, or representative of an institution, through the media and through the reputation of that institution or official. In the case of trust in particular public figures, the media plays a big role in the creation and spread of warrants that enable social trust. There is a mutual relationship. The media plays this role in two ways. First, it circulates the necessary information that tells citizens about the character, normative identities and actions of certain public officials. The truster can have confidence in the fact that there is a great deal known about a particular public figure. The second way the media assists with the spread of warrants that enable social trust is, ideally, through ethical reporting and investigative journalism which provide incentives for public figures to behave in trustworthy ways. Reputation is important to public figures because scandals and stories of untrustworthy behaviour can ruin their symbolic power as their reputation grows (*ibid.*, 86). If a public figure, or public figures, are associated with untrustworthy behaviour, the public withdraws its trust. An example of this is the way in which ordinary South Africans withdrew their trust in the government's response to the Covid-19 crisis after reports of governmental looting of relief funds (Mavuso, 2020). This example illustrates how the withdrawal of this trust can be extremely harmful. Governmental looting and corruption during a global pandemic (that, in addition to health risks, was characterized by mass unemployment, homelessness and food insecurity) has meant that the public is disincentivised to work alongside government in providing aid to the most helpless in society.

In certain cases, warrants from trust judgements are not readily available. Regardless, good institutional trust judgements are still possible. For good institutional trust judgements to be made, the truster needs to be aware of the following three features of the institution s/he intends to trust. First, the truster needs to be aware of the role that normatively defines the office which the officer/agent/professional of an institution holds. Second, “a truster must have knowledge about the motivations of the trustee to infer trustworthiness” (Warren, 2018: 88). Institutional trust often builds on the norms and standards of professionalism, these norms and standards provide incentives that feed into, and rely on, professional identities. These norms, attitudes and motivations are attached to the professionals within the institution and the institution itself. Some of the norms that define the institution are embedded in the roles and offices within the institution and some of the norms that define the institution are the norms of the professional.

Third, because ordinary citizens and trusters do not always have knowledge about the “normative attachments” officials have to their office (*ibid.*), it is important that institutions

have built in sanctions that are available to trusters. These sanctions serve as an oversight and accountability mechanism. While institutions should have internal oversight bodies, sanctions can operate via the media, watchdogs and civil society, to name a few. For example, one body which oversees doctors is the South African Medical Association (SAMA). Doctors are registered with SAMA and it regulates medical practice for the purposes of safety and standardization. SAMA also includes the Health Professions Council of South Africa (HPCSA) which oversees the performance of doctors. The HPCSA acts both as an authority on the norms of the profession and an investigative body that looks into medical practice complaints on behalf of the public. Because of the knowledge and standardization produced and referred to by this body, the truster is able to know about the duties and motivations of doctors (i.e. about the trustee's interest in compliance). Even if a doctor has not internalised the norms (in this case the norms and ethics prescribed in the Hippocratic Oath and the laws that govern medical practice in South Africa), she or he would still have a clear incentive to behave consistently because of the oversight of SAMA. Essentially, institutional trust requires effective means and mechanisms to reduce risk and violations of trust. Individuals need to be able to resort to effective internal monitoring bodies or know of other people or organisations that are effectively monitoring, if their trust is violated (*ibid.*). If these three essential features exist, warranted institutional trust can be cultivated.

The second necessary condition for institutional trusting relationships, according to Warren, is publicity. In terms of this condition, one must ask whether the trusting relationships “could be publicly justified to those they affect” (Warren, 2018: 81). This allows us to distinguish between trusting relationships that are good for democracy and those that are harmful for democracy. Trusting relationships are neither morally, nor politically, inherently good or bad. There are, however, certain trusting relationships that are harmful towards democracy. Warren (*ibid.*, 75) employs Annette Baier's theory on trust to explain this dilemma. Baier (1986: 259) writes that trust is “morally decent only if, in addition to whatever else entrusted, knowledge of each party's reasons for confident reliance on the other to continue the relationship could also be entrusted”. Baier argues that mutual knowledge will lead to mutual reliance and mutual trust. Warren (2018: 75) says that an expansion of Baier's theory would include a shared knowledge, or publicity, and the consequences that follow from this publicity should include all those who would be affected (directly or indirectly) by it. This means that if all of those affected by the shared knowledge accept a specific trusting relationship, then it is probably good for the democracy. As result, the trusting relationship is democratically legitimate in so

far as it can be justified to those that are affected by its externalities (ibid., 82). This kind of publicity test would enable a culture of justification for why certain relationships exist and the ways they affect others. For example, the trusting relationship between former president Jacob Zuma and the Gupta family did not serve democracy, because their reasons for trusting each other are antithetical to what is needed for our democracy to grow and flourish. This test allows us to distinguish between better and worse kinds of trusting relationships, from a democratic perspective. This draws on the nature of particularized forms of trust. Where a certain group of people only trust those with whom they share a race or nationality, they would likely struggle to publicly, in terms of institutional norms of fairness, justify their trust relationships to those that are affected (others who are different or do not share the same race or nationality) by this trust relationship. I come back to the distinction between particularized and generalized forms of trust later in section 3.4.5.

These two conditions for trust relationships as argued by Warren (2018: 81), the warrant for a trust judgement and the extent to which certain trust relationships could publicly be justified to others, provide us with the insight needed to identify, conceptualize, and assess the variety of trusting relationships that exist in democracies (ibid., 83). This includes broader social trusting relationships as well as specific trusting relationships that involve state institutions. There is however a further distinction between first order and second order institutional trust.

### ***3.4.3. First and Second Order Institutional Trust***

First-order and second-order institutional trust denote two distinct categories and some state institutions will fall within the one or the other. First-order institutions depend on institutional trust to function and thrive, whereas second-order institutions do not require institutional trust in individual actors of that institution and very often there is a reliance on mistrust to hold these institutions accountable. For example, in a democracy, first order trust in public health institutions is extremely important; the general public need to be able to trust public health services, which include governmental boards that are responsible for oversight as well as the individual doctors, nurses and administrative staff that run a specific hospital. Second-order institutions, such as the legislature, also form part of the state, but are often reliant on mistrust so that politicians who make up the legislature are persuaded to prioritise public interest instead of party allegiance. I explore this further next.

#### ***3.4.3.1. First Order Institutional Trust***

First order institutional trust refers to those institutions within a democracy that require public trust to function (Warren, 2018: 90). Where institutions meet the three considerations for warranted trust in institutions as set out above (namely, the normative identities of public institutions need to be available and known to the public they affect- the general public- and those who represent these norms need to be held accountable if they deviate from the rules of the specific institution they represent), then these institutions are likely first-order institutions.

In democracy, institutional trust is not based on officials sharing interests with everyone; rather, they “represent some partial collective interests” (Warren, 2018: 89). This means that political representatives (including ministers and certain politicians) do not form part of institutions that require continuous and firmly established institutional trust from the general population because they, as politically appointed members, serve partial or political interests instead of the interests of the collective. These types of trusting relations, that rely on a healthy dose of mistrust, are called second-order institutional trusting relationships. I discuss this further below. However, well-functioning democracies are well-functioning precisely because of the existence of high levels of public trust in those parts of government that are mandated with providing common goods. These institutions are deemed first order institutions of trust because of the common goods and goals they are centred around. This includes most executive offices and agencies within government, and it is they that depend upon first order institutional trust. A government is comprised of a multitude of institutions with “broadly agreed public purposes” (ibid.). These broadly agreed upon public purposes include the provision of national/domestic security (through an effective and impartial system), social security, providing efficient and reliable health care, managing public goods like food (fisheries and produce), water and air and public transport. In high functioning democracies, these goods are managed by executive agencies within the government. As a result, individuals within democracies should be able to trust that they will be treated uniformly, fairly and with impartiality, irrespective of who their political representatives are.

Citizens within these democracies should be able to expect and demand to receive “equitable treatment and support from public entities” (ibid.). These actors, who embody or in some way represent the institution, have the ability to hold the trust that we intend for the anonymous subject and the institution itself (ibid., 90). Unlike interpersonal trust, trust in institutions (that rely on public trust relationships) is formed from a distance. As a result, public transparency of institutions is imperative. Institutions operate in complex ways; the greater the public good, the

greater the risks associated with the inconsistent delivery of that good. Complex institutions utilize complex sets of expertise. In order to cultivate and maintain public trust in institutions, these institutions have to remain accountable and transparent. The general public have to have knowledge of, and faith in, the oversight of experts who act on behalf of the relevant public good (ibid.). Recall the previous discussion about the role that the HPCSA plays in guaranteeing faith in medical practices insofar as this body exists to standardize and hold accountable medical practitioners to ensure the protection of public health as a public good.

Another example is the institutions and actors that ensure the wheels of justice are effective in our society. Trust in institutions that (should) ensure justice (such as the police) is important because justice concerns a number of rights and public goods. Justice encompasses the equitable enforcement of the rule of law, public safety and the protection of individuals where their rights are threatened. Trust in justice refers to trust in the individuals who facilitate and enable justice and a just, fair and safe society. Trust in justice is pivotal to the discussion of trust more broadly, and institutional trust more narrowly. First, building on the theory of Max Weber (1968: 54-56), where the state is seen as having a monopoly over legitimate use of violence, Bradford, Jackson, and Hough (2018: 633) write that, as a result, there is widespread acceptance that citizens must be able to trust in justice systems that have unusually intrusive mandates and powers to “coerce, detain, and protect” people. If there is a systemic crisis of trust regarding justice institutions, it indicates a problematic relationship between citizens and legal authorities. People deserve to live in a society where they can trust the justice institutions that are mandated to protect and further their interest, especially interests that relate to the safety, security, and freedoms of individuals. Second, in order for legal systems within democratic societies to function, they require the trust of citizens. In order to sustain and manifest order, the police need the cooperation of citizens; for instance, citizens provide information through witness accounts, and expertise. People are also less likely to report crimes or accept the authority of police (as an institution of justice and the state) if they doubt the efficiency and fairness of officers as individuals or if this institution lacks mechanisms of oversight and accountability (ibid.).

Some theorists, for example Hardin (1999, 2013), remain sceptical about trusting institutions and argue that instead of talking about institutions as “caring” or “intending”, we should rather push for institutions to be viewed through a lens of constructive mistrust: we should continually monitor and question these institutions and only rely on them minimally. Other theorists, like

PytlikZillig and Kimborough (2016: 27), argue that it is precisely because we have “anthropomorphized institutions” (attributing human characteristics and qualities to inanimate objects) that studies and theories around trusting institutions are so imperative. This point is especially important in the context of policing, where the image of the police officer, and the policing organization he/she represents, “is steeped in social and cultural meaning” (Bradford *et al.*, 2018: 634). This means that individual officers represent and embody the institution of policing and, as a result, police officers are not “faceless” but rather represented by a variety of imagined (through perceptions of the types of characteristics and personalities that embody these roles as drawn from media depictions) but nonetheless real social personas (Bradford *et al.*, 2018: 634). In this way, in first order institutional relationships of trust, the object of trust (the trustee) is the institution, but trust judgements are most frequently made about the representative or office bearer of that institution. As a result, trust in institutions plays out as an individual trusting someone both in their personal (albeit to a much lesser degree) capacity and their professional capacity as a representative/officer/agent of a particular institution. For example, when a parent trusts a school governing body, they also trust the individual teacher as a member of that governing body. Whilst they might have very little information about the teacher, they do, in fact, trust them on an interpersonal and institutional level.

Trust in justice does not necessarily include trust in ‘the law’. The law is an “enforceable code of conduct” that represents a specific set of legal rules and duties (Bradford *et al.*, 2018: 636). Bradford *et al.* (ibid.) writes:

... the law is not a trustee; it has no agency or independent volition. One does not rely on the behavior *of* the law, nor can one be vulnerable in relation *to* the law. While trust does not need to be entirely reciprocal, the trustee does need to be an intentional actor. One could break the law or be falsely accused, and feel vulnerable to potential actions from law enforcement and court officials, but that refers to trust in institutions that administer justice, not to trust in the law. The law is like a heavy rock— it can harm or crush a person, but it has to be moved by another in order to do so.

This means that the law requires enforcers, and it is in these enforcers that we decide to place our trust (or mistrust). For example, procedural fairness is an important legal principle and when it is trusted, or even contested, it is largely because of how certain individuals with state power choose to enforce the rules and procedures that should be governed by this principle.



When we trust institutions of justice, as opposed to trusting the law, we trust that when we interact with figures of authority (like police officers), they will value procedural fairness and, by extension, the respect, dignity, equity and neutrality of every individual they encounter. Bradford *et al.* (2018: 636) argue that people place greater value and emphasis on the process of law enforcement than the success of the outcome. Procedural fairness facilitates trust in institutions because it turns on the actions of actors that embody the values and duties of a given institution, such as justice, and is not solely based on the laws that govern these actors and the institutions they represent. As a result, often when we say that we trust institutions, we are saying that we trust the actors and enforcers of the values, rules, and decisions of those institutions. I come back to this concept in the next chapter, when interrogating the conduct of police officers, and in particular the conduct of the police officers in the case studies which were set out in chapter 2.

#### *3.4.3.2. Second Order Institutional Trust*

Second order institutional trust refers to the institutions within a democracy that often require, and thrive on, mistrust. Political parties and politicians, for example, do not hold first-order institutional trust. They are political in the sense that their interests and the needs and interests of citizens do not necessarily align, but they are necessary for democratic function. While they are necessary for democratic functioning, we expect engaged mistrust of these institutions from the citizenry, so that they may be monitored and challenged, and held to account. Democracy depends on these institutions because they channel conflict into democratic media and voting (Warren, 2018: 90). Warrants for this kind of trust are strategic and partial. Second-order institutional trust falls in line with Hardin's (1999: 39) arguments for mistrust of governments. While citizens may rightly have very little incentive to trust politicians, they must be able to trust the institutions that "discipline politicians to conduct conflict through talking and voting" (Warren, 2018: 91). In the absence of trust in the institutions that ought to hold politicians and law makers accountable, democracies would only be able to rely on representative politicians that capture the interests and trust of the citizenry directly. Low public confidence and weak institutional rules that only rely on elected bodies are more likely to struggle to function or push progress speedily and efficiently.

Public trust and mistrust in institutions are both imperative in democratic systems of government. In order for democracies to function and function well, citizens have to have knowledge and the belief that first-order institutions will serve collective and individual



interests fairly and impartially. Corruption, and the failure of representatives to act in line with the normative identities of these institutions, can have catastrophic impacts on the institutions themselves and greatly impact the democratic state and its legitimacy to govern. I come back to this issue later. First, I will explore the unique role trust plays in new democracies such as our own.

#### **3.4.4. *Trust in (New) Democracies***

Theorists like Russel Hardin (1999) argue that it is impossible to measure trust in government, and that we should not want to trust government. Hardin (1999: 23) argues that it would be impossible to ascertain the intentions and competence of every elected representative, let alone every government official, because we do not have past experiences with every representative and official to base our trust on. We simply lack the necessary evidence to make good trust judgements in this case. Therefore, trust would be impossible to gauge, or measure, and should not be necessary. Democracies, Hardin (ibid., 39) argues, should instead be based on mistrust. When individuals do not go out and vote it does not mean that there is something broken in a democracy, in fact it is the opposite; it is an indication that whatever problems do exist, are not so dire that they have mobilised the people. Mistrust is more essential to democracy than trust, because it serves as an accountability and oversight mechanism for government institutions and actions. Against Hardin, I would argue that he overlooks the vital role trust plays in new democracies. New democracies rely on the building and maintenance of trust relationships (on all levels of society including interpersonal, social and institutional trust), in order to provide social order, stability and legitimacy to the newly established state institutions. As I have argued above, institutional trust is vital to the systemic and everyday functioning of ordinary citizens. Institutional trust is even more imperative and often fragile within new democracies. I explore these and other concepts below.

Trust in social and political institutions is the binding agent that enables the legitimacy of democratic systems (old and new) and facilitates cooperation between citizens (horizontal relationships of trust) and between the state and its citizens (vertical relationships of trust). This is different to authoritarian systems of governance, where neither legitimacy nor voluntary cooperation and compliance are important or sought out (Letki, 2018: 336). Authoritarian states forgo the need to build citizen confidence and legitimacy and instead employ political manipulation and militaristic force to force compliance and suppress dissatisfaction or dissent. In democratic systems of governance, citizens' voluntary compliance is built through

intentional (interpersonal and institutional) trust building, which enables legitimacy. In stable democracies, citizens are able to distinguish between the quality (and intentions) of political systems and the quality (and intentions) of institutions within the system. For example, when the police fail in their mandate, citizens in stable democracies will likely not take this failure as a sign that their democracy is ineffective but will rather attribute this failure to a specific administration. This is similar to political science distinctions between governments and the state. In stable democracies this distinction is clear, governments come and go and change depending on the political party in power and the policies and administrative directives they enact. However, statehood remains constant. As a result, where there is mistrust of either, it is perceived as an indicator of healthy scepticism on the part of an active citizenry and will not necessarily destabilize the entire political landscape (Letki, 2018: 338).

In new democracies, however, people's experiences of what a particular government has to offer are limited. It is likely that for ordinary citizens, institutions initiated by this government will be conflated with or confused with, a particular political system or political party instead of being seen as stand-alone institutions, which are removed from a particular government or governing party. Taking into consideration the fragility of new democracies, low institutional trust can have devastating effects on the current government, as well as the new democratic institutions that have been put in place. Continued mistrust can result in the withdrawal of support for democratic institutions and lead to "democratic backsliding" (ibid., 339). A lack of trust in institutions has a direct effect on the behaviour of citizens. When institutions are not trusted, the legitimacy of those institutions is contested. Citizens are less likely to believe in, and invest in, the institutions they do not trust. For example, corruption in government means that citizens are less enthusiastic or willing to pay taxes than they would be under a system without corruption. Citizens could become resentful about having to pay taxes to a government that is corrupt, and thus less likely to believe or validate institutions that are tasked with collecting taxes. In contrast, they would not begrudge these institutions if tax money was seen as contributing towards providing universal goods, such as health care or education.

Because trust and democracy are mutually reliant and deeply interconnected, especially in an immature democracy, all levels of trust work to either sustain or undermine democracy. In turn, trust is facilitated by strong democratic institutions. Interpersonal trust and institutional trust are both important in new democracies. Third wave democratization was characterized by the large wave of democratization in Latin America, Africa, Asia and parts of Europe between the

1970s and 1990s (Huntington, 1991: 16). Most of these countries saw high levels of external conflict (against colonial and communist powers) and internal conflict (between rival tribes and factions). As a result, it is important to clarify how interpersonal trusting relationships work in these regions. Citizens in new democracies have to work harder in order to build trusting relationships with those who they do not share normative interests or similarities with because of differences in race, age, language and so on. This points to a pertinent distinction between particular and generalized forms of trust. Generalized and particularized trust will be discussed as two forms of interpersonal relationships of trust<sup>30</sup> which have a great impact on the political landscape of a young democracy, such as South Africa. I explore this further below.

### **3.4.5. *Generalized versus Particularized Forms of Trust***

Generalized trust, as the name suggests, refers to a general trust that is not limited to a particular group of people or to a specific purpose. Generalized trust refers to trust that goes beyond one's immediate circle of friends and family and forms the basis for cooperation between individuals in society (Lenard & Miller, 2018: 58). Generalized trust is based on long-lasting attitudes of optimism and a deep psychological foundation of control where one feels that "the future looks bright and I can help make it better" (Uslaner, 2018: 4). Uslaner argues that generalized trust is particularly valuable in society and stabilizes over time (2018: 4). This positive attitude about the future (a sort of positive expectation that is diffuse and spread out over self, others, and institutions) means that bad experiences do not necessarily lead people to become less trusting in general and, likewise, good experiences do not necessarily mean a spike in greater trust. Generalized trust is the stabilisation of social and political trust over time. Democracies do well when people share common purposes. When people can associate with common purposes, they are more responsive and more active, in their own lives, and in the larger socio-political landscape, because they have vested interests in the performance of the democracy and its institutions. Common purposes also allow citizens to be more excited about solving problems (through political and civic participation), making fair sacrifices, and electing representatives to serve their needs and agendas (Warren, 2018: 77). Individuals with generalized trust are more invested in the powers and responsibilities afforded to them through citizenship. A key underpinning of these associative capacities is relationships of trust that go beyond the relationships of trust between family and friends and compatriots.

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<sup>30</sup> These interpersonal trusting relationships are discussed here, as opposed to earlier in the chapter under interpersonal trust, because while they are interpersonal in nature, they have such a profound impact on the social and political landscape of a society.

Warren (ibid.) points out that democracies protect these relationships of generalized trust through a rights-based approach. Associative rights, such as the right to associate, the right to freedom of speech and the right to be free from arbitrary or discriminatory actions (by state or other entities that occupy a public role and others), set out to reinforce the ability to associate and form generalized bonds with other individuals, with the entire social system, and even generalized trust with (actors and institutions of) the state itself. Of course, rights do not directly produce trust in society, but they allow for open and protected public spaces which facilitate trusting relationships. In other words, “where such rights exist, horizontal trust relations can grow” (ibid.). The state protects vertical trusting relationships and by so doing facilitates horizontal trusting relationships. This is true not just in theory but in tangible ways that facilitate interpersonal trust relationships between citizens.

However, if a particular state does not protect these fundamental rights, interpersonal trusting relationships between citizens can be decimated. For example, a society characterized by inequality and segregation is unjust *and* would actively prohibit the growth and facilitation of generalized, horizontal trusting relationships. South African society during apartheid was a visceral example of this, relationships across racial groups (between Coloured, Black, Indian and white people) were fraught because the laws of segregation directly and purposely facilitated distrust of the ‘other’ and because trusting relationships across racial lines (and with white people especially) very often resulted in serious harms, including imprisonment and murder. Because there was a deficit of vertical trusting relationships between the state and its (Black) citizenry, it became virtually impossible to foster horizontal trusting relationships.

Warren writes that there are three ways in which democratic political systems work to encourage generalized forms of trust. The first is by reducing the risks that could possibly arise from these generalized trusting relationships. Democratic governments do this through the promulgation and exercise of security and the rule of law.<sup>31</sup> The second is by reducing

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<sup>31</sup> The rule of law is a fundamental cornerstone of modern democracies. Very briefly the rule of law can be understood by four basic concepts. The first centres around the concept of accountability. Both government actors and private actors have to be able to be held accountable under the law. The second states that a democratic political system has to be governed by just laws. These laws have to be clear, concise, publicized (easily accessed and known) and consistent. These laws have to be applied evenly and in pursuit of protecting fundamental rights such as the right to safety of persons, human rights and property rights. The third cornerstone entails that governments within democratic political systems have to be open. The processes that allow government to present, deliberate and enact laws have to be transparent, fair and efficient. The last basic

“particularistic dependencies through universal welfare supports” (Warren, 2018: 85). This is an attempt to reduce clientelist relationships<sup>32</sup> where individuals are reliant and dependent on certain interpersonal relationships. An example of this sort of welfare support is the establishment of programmes that mitigate exploitative housing practices, such as subsidized low-income housing within the inner city to protect poor to middle-class families from being taken advantage of by exploitative realtors and developers. In providing this sort of housing, the government facilitates and protects the right to housing as a fundamental right and reduces exploitative clientelism. The third way is by increasing the chances of interpersonal and socially mediated warrants spreading through institutions, such as public schools and universities, in an attempt to overcome and cut through particularized relations.

Particularized trust is often viewed as being too limited to promote larger democratic stability. Where a person can only trust individuals like themselves or individuals who share a very narrow common purpose with them, makes it extremely difficult to foster the broader, generalized trust that is required for stable democracies. For democratic principles of equality, representative politics, and rule of law to hold, citizens need to be able to trust in people broadly and be able to trust in the institutions within a democratic system that uphold democratic values. Those who only trust in particular ways, and who only trust those who share important identities with them, are more likely to be suspicious of others who do not share similarities with them. In this way, those who only trust in particularized ways use race, class, gender, ethnicity and nationality to identify a “we” and an “other” (Warren, 2018: 85).<sup>33</sup> Of course, particularized trust relationships are not all bad. The foundational relationships of trust, which are cultivated in one’s formative years with one’s friends and family, are invaluable, developmentally speaking. These relationships largely shape our ability to trust others as we grow into adulthood. However, democracies suffer and are eroded through tribalism and

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concept of the rule of law within a democratic political system is accessibility to justice. For all those seeking it, justice must be delivered timely, competently and ethically. Those that enact justice have to be independent, neutral and non-biased (World Justice Project).

<sup>32</sup> Clientelist relationships refer to patron-client relationships that are characterized by power asymmetry, it often involves individuals/groups of people who are financially vulnerable being taken advantage of by those who have more power often in the form of financial leverage.

<sup>33</sup> This is in line with the theorization on epistemic injustice as presented by Fricker and discussed above under the section 3.2.3. Recall that Fricker’s theory explains how prejudices and stereotypes result in a credibility deficit for the speaker when a listener refuses to hear what a speaker is presenting to them, and adding to the general pool of knowledge, because of their preconceived notions about the speaker. Warren (2018: 85) similarly argues that particularized forms of trust can be harmful if we only listen to, engage with and form trusting relationships with those who are like us. Particularized trust, like group prejudices and stereotypes, works according to the binary of ‘them versus us’ and creates an other who is not listened to or trusted.

nepotism when individuals *only* trust in such particularized ways. For a democracy to function well, particularized trust needs to be supplemented with broad, generalized (almost anonymized) trusting relationships. When democratic cultures in institutions are not properly protected, people become more dependent upon and start to narrow down their trusting relations to particularised networks of trust. This allows for corruption to flourish and leads to a vicious circle eroding generalised trust even further. ‘Tribalist’ loyalties then undermine attempts to build public accountability and generalised trust. In the following section, I look at the relationship between trust in institutions and the legitimacy of those institutions. I look at the harms that affect institutional trust and legitimacy where institutional trust has been violated.

### **3.4.6. *Harms of Institutional Trust Violations***

In this section, I briefly look at the relationship the state has with trust. I investigate the interconnected relationships between legitimacy and institutional trust and state power, specifically in relation to security services such as the police service. I rely on the analysis of trust and legitimacy in the criminal justice system presented by Bradford *et al.* (2018: 647) and unpack how each of these concepts “differentially motivates cooperation with legal authorities”. In this section, I use the term ‘legal authorities’ specifically in relation to police services.

Max Weber argued that one of the core tenets of state power is that states have a monopoly on the legitimate use of violence (Weber, 1968: 54-56). In other words, the state can use physical violence to maintain and sustain order (*ibid.*). While other organisations might have power, they are only permitted to use physical force when it is sanctioned by the state. Individuals are only allowed to use physical violence in narrow circumstances prescribed by law, such as self-defence, or while acting as representative organs of state in a manner prescribed by the state (Dusza, 1989: 88). This Weberian position is widely accepted. In section 13(3)(b) of the South African Police Service Act 68 of 1995 (Republic of South Africa, 1995), it states that “[w]here a member who performs an official duty is authorised by law to use force, he or she may use only the minimum force which is reasonable in the circumstances”. This condones the use of physical force by police officials only if it is necessary and justifiable in terms of the principles of rights embedded in the Constitution. This transferral of the state monopoly on violence to an individual agent is symbolized by the police uniform, riot gear and the firearms that police officials carry openly. Members of the police are allowed to openly carry firearms and other

weapons that can be used as instruments of force and coercion against others because of the understanding that this potential for physical violence is legitimate because the state has sanctioned it for the purposes of protecting civilians and communities against the violence of other civilians. Individuals within the police force become physical embodiments of the legitimate use of state power.

In comparison to other public institutions, police occupy a uniquely essential and sensitive position in society. The mandate and scope of the police service are three-fold. The first is an opt-in and opt-out system, for example, citizens are required to report crimes but still to a large degree decide the level of diligence, care, and effort they put into the reporting process. Regardless of the seriousness of the crime being reported, reporting citizens are still subjected to the norms and practices of the institution. Second, legal authorities represent and enforce a system of regulations that citizens must submit to. If they do not submit to these regulations, they can face sanctions. Lastly, legal authorities, like the police, have the power to protect and serve and to detain or coerce. Legal authorities can only uphold their mandate and function effectively if a certain kind of trusting relationship exists between citizens and the agents of these authorities. These relationships are characterised by complicated relationships of interdependence between the trustee and the truster (Bradford *et al*, 2018: 647).

Trust in legal authorities relies on the following two considerations. First, to trust legal authorities, one needs to be able to trust the “future behaviour of specific individual actors” (ibid., 635). Second, one needs to be able to trust the intentions and ideals that inform the actions of these specific actors. We need to be able to trust that the intentions of these actors are informed by social regulations and the production of order. Procedural fairness, again, is the perfect example of this; when approaching a police officer to report a crime, you would have a positive expectation that you would be treated with respect, dignity and fairness. If your property had to be searched by a police officer, or if you had to be questioned by a police officer, there would be a positive expectation that you would not be treated with disrespect, violence, or a lack of dignity (ibid., 647).

The actions and behaviour of police officers have implications for the “generation and reproduction of trust” (ibid., 648). Because of the nature of coercive power, which forms the bedrock of justice institutions like the police service, these institutions, and their representatives, are particularly significant agents of the state. This means that whatever actions



they take, these institutions (inevitably and always) send messages of inclusion or exclusions to citizens that other public institutions simply cannot. The racial profiling, harassment and arrest of Esethu Mcinjana in May 2019 is an example of this. Esethu was targeted and arrested by police for sitting on a bench in Sea Point, whilst waiting to attend a job interview (Ndongeni, 2019). Her arrest speaks to the hypervisibility and othering that Black women face in society. The treatment she received from the police might reflect the racist and classist oppression that exists in society. It definitely (and violently) communicates who is seen as belonging in certain spaces and who is likely to be targeted in those spaces. Recall the discussion of Kimberlé Crenshaw's (2016) keynote address on intersectionality. She argues that intersectionality is not about multiple identities but rather about "how structures make certain identities the consequence of the vehicle of vulnerability" (Crenshaw, 2016). This highlights that the police, when using violence and intimidation, reflect the structures of oppression in society that target certain intersectional identities and may reinforce (social and political) narratives of exclusion and othering, and thus affirm the vulnerabilities associated with those identities. The behaviour of police officers carries "identity-relevant information" that people use to shape their sense of self and their positioning in society (Bradford *et al.*, 2018: 648).

Bradford *et al.*, (ibid.) argue that fairness broadly indicates and facilitates inclusion, belonging, status and acceptance and, in this way, fairness facilitates the formation of group identities between police and citizens, and even between citizens and citizens. It is easy to see that when different groups of people are treated differently, through a violation of the standards of inclusion and fairness, there would be a growing sense of unfairness and lack of dignity between the police and citizens, but also between the citizens that are not afforded the dignity of fairness by the police (and the state) and the citizens who are. As a result, police have to be able to trust civilians without relying on biases and racial, class, ethnic or nationality prejudice in order to maintain a standard of fairness towards everyone and enable the growth and cultivation of trust. There is also interdependence between police and the citizenry: police officers would not be able to fulfil their basic functions without the help of citizens. This is because police investigations require citizens to report, to be interviewed, and to be transparent. This interdependence means that both the police and citizenry suffer greatly without mutual trust relationships. Standards of fairness also require that police officers go above and beyond simply adhering to the rules and regulations that govern their profession; police officers should also act in morally acceptable ways. Citizens judge the conduct and behaviour of police officers



against accepted norms of integrity, probity, and fairness and “actively assess whether the police can and should be considered representative of their group” (ibid.).

This brings us to legitimacy. Trust speaks to the positive expectations that we have of police officers (and the police as an institution of justice that enforces personal safety) and their capabilities and intentions. Legitimacy, on the other hand, speaks to the power that police officers have as representatives of a legal authority (and the state) and how they choose to use their rightful power in relation to citizens. When police officers have legitimacy, it means that they have rightful authority and that citizens accept and defer to this authority. According to Bradford *et al.* (ibid.), there is “a subjective sense of duty to obey” that is inherent to the construction of legitimacy. Legitimacy allows for power to be recognized and accepted (sometimes in coercive ways) and facilitates a belief that police officers have earned, and are entitled to, legitimate authority. For example, in cases of domestic terror, the state’s use of violence against citizens in order to protect the interests and freedoms of the citizenry as a whole does not minimize the legitimacy of the state in the eyes of the citizenry. This violence could result in several deaths, but it is seen through the lens of legitimacy and a justified monopoly on violence. Through the conferral of legitimate authority, citizens willingly transfer their personal power to the state. In the next section, I put forward three distinctions between institutional trust and legitimacy, as argued by Bradford *et al.* (2018).

The first distinction between trust and legitimacy is the type of expectations that each entail. To trust is to anticipate normatively appropriate behaviour on the part of the person we trust with regards to a specific action. This means that when we make institutional trust judgements, or form institutional trusting relationships, we likely do so with a very narrow and specific expectation. In any society, citizens need to trust that the police will act fairly (in specific, appropriate ways) and be effective in specific contexts in order to form trusting relationships. Legitimacy, on the other hand, is more of an “overarching belief that an institution has the right to power” (Bradford *et al.*, 2018: 648). It includes the belief that there is consistency between how the police ought to act and how they do act and between how power should be exercised and how it is, in fact, exercised. Questions of legitimacy can exist when we are not faced with a specific scenario that involves a specific police officer. These two concepts, while referring to different expectations, are nevertheless intrinsically linked. Citizens believe that the police are entitled to their deference and, therefore, accept their authority because of this belief that their power is justified. This power is seen as justified when the institution and its

representatives (police officers) are believed to wield their authority in normatively appropriate ways. In other words, power is seen as justified when institutions and their representatives are trusted.

The second distinction between trust and legitimacy lies in the risk associated with the situation. When one trusts, one does not expect bad treatment: there is a positive expectation that one's treatment at the hands of others, the actions of others, and the outcome of the situation, will be positive. For example, if I trust the police in the context of reporting a crime, I assume that the officer I interact with will be present and attentive and will not be disrespectful, biased, or harmful. However, as discussed previously, trust always carries some risk. Human beings are fallible and sometimes deceptive. When we trust, we run the risk of being disappointed or having our trust violated. This risk is present in both thick and thin relationships of trust. Legitimacy, on the other hand, relates to "the power and legal duties attached to citizenship" (Bradford *et al.*, 2018: 649). When citizens believe that the police service, as an institution, is "moral, appropriate and proper", they also believe that the police officers who represent the institution and the state will act in normatively appropriate and acceptable ways (*ibid.*). Within the context of legitimacy, there should be no risk of disappointment or violation. Legitimacy mandates consistency and fairness. For example, when a citizen reports a crime, they do so because they believe that the officer with whom they interact will act in normatively appropriate ways. This includes being sympathetic and patient if a victim is reporting a dehumanising or violent crime. This sort of belief can be ascribed to trusting judgements, but it is also ascribed to legitimacy. Individuals report crimes because they have a positive expectation of the police officer (trust), but they also believe that officers will act in normatively appropriate ways because they are representatives of the police institution and agents of the state (a motivation based on legitimacy) (*ibid.*). Because police are seen as servants of the citizenry, their role and mandate are to serve, protect and work in ways that promote the best interests of the citizenry.

The third distinction between trust and legitimacy regards each concept's relationship with time. Bradford *et al.* do not explicitly make this argument, but it remains an important distinction between institutional trust and legitimacy. Institutional trust (unlike thick interpersonal trusting relationships) is short-term, anonymous and generalized. For most people, interacting and engaging with the police only happens in exceptional or rare circumstances. As previously mentioned, when institutional trust gets violated in a once-off

manner, the legitimacy of the institution can remain intact. When institutional trust is violated, one could still ascribe that violation to the specific person who held their trust in the scenario where the violation occurred. However, when these violations are severe or occur frequently then, over time, they may call into question the legitimacy of the relevant institutions. Of course, questions of legitimacy include concepts such as authority, accountability, and oversight. Through a temporal lens, institutional trust takes place immediately: for example, an individual reports their case, works with a police officer for a few hours, or weeks if a serious crime was committed, and then moves along, either to another police officer or, in the event that the case is resolved, indefinitely. However, if there are enough violations (which typically occur between individuals and the representatives of institutions) of institutional trust, this translates into an erosion of legitimacy over time.

In summary, institutional trust is extremely important because it facilitates the functioning of the systems and institutions which we rely on, both at an individual and a socio-political level. If there were no institutional trust in the state institutions that are mandated to provide specific social goods, there would be chaos. Life would be unorganized, inconsistent, and harsh. Institutional trust allows us to trust individuals who act as agents of the state. These individuals are usually strangers but they are mandated to act in a manner that promotes the instructions and intentions of the state, specifically its instruction to serve and protect its citizens. When we extend institutional trust, we do so with the guarantee that oversight and accountability mechanisms will correct any violations of this trust. First-order institutional trust is the type of trust that we have in institutions that rely on public trust in order to function. The interconnected relationship between institutional trust and the legitimacy of an institution means that the legitimacy of the institution may also be called into question where there are repeated institutional trust violations. I unpack this further in the following chapter.

## ***Conclusion***

Our lives are underpinned by many different relationships of trust and mistrust. Understanding the nature and complexity of trusting relationships allows us to understand what is needed to foster these relationships and allows us to understand how devastating it can be to have these relationships of trust violated. In this chapter, I have laid out the basic considerations for the cultivation of trust. I have illustrated the interconnected ways in which trust manifests, from the deeply personal (self-trust) to the interpersonal to the trust we hold in the systems and institutions that govern our lives (through institutional trust). All of these trusting relationships

are important because they help us to make sense of the world and to act in the world with confidence. While I have separated them according to themes, they are deeply interconnected. The construction of interpersonal trust is deeply dependant on our ability to establish and draw on self-trust. A violation of self-trust has profound effects on our ability to communicate and trust the intentions of other people. Our ability to trust institutions is dependent on our ability to form trusting judgements with the strangers who represent those institutions. This in turn depends partly on our trust in our own trust judgements. This rich theoretical and philosophical understanding of trust forms the basis for the application that follows in the next chapter. While I briefly touched on the possible harms that follow the violations of trust (in its different forms), the following chapter seeks to combine the case studies of chapter 2 with the theoretical foundation set out in this chapter. I explore how the violations of the interconnected systems of trust that were activated in the interactions between K, F and Rebecca Mosepele and their attackers also resulted in an interconnected network of harms. These harms are not only manifested on an individual level, but they also have profound effects on the past and future iterations of trust for these women. In addition, they also carry profound consequences for other women in South Africa who have been raped by police officers, as well as women who have not been raped by police officers but who are burdened with renegotiating their trusting (and interdependent) relationships with the police service because of this known threat of sexual violence.

## CHAPTER 4: A NETWORK OF VIOLATIONS

### *Introduction*

Following the case studies laid out in chapter 2 and the theoretical framework in chapter 3, chapter 4 looks at the application of interconnected theories of trust to the case studies of K, F and Rebecca Mosepele, who were raped and assaulted by SAPS officers. The aim is to investigate, in detail, what happens to the civilian victims' networks of trust when she is raped by police officer(s). This chapter considers the construction and destruction of interpersonal trust, self-trust and institutional trust, which occurred before, during and after these rapes. Once again, there is a clear temporal dimension to the establishment and violation of trust. When we form trusting relationships with others, we do so by activating an interconnected network of trust, as discussed in chapter 3. As a result, when this trust is violated in pernicious ways, the effects can be complex and spread across this whole network and this has devastating consequences for the victim. The construction and violation of trusting relationships are dynamically connected. For the sake of this study, these interconnected forms of trust – interpersonal trust, self-trust, and institutional trust - are analytically distinguished from one another in order to understand and unpack the far-reaching harms that arise when trust is severely violated.

Following the order established in the previous chapter, I start the analysis by focusing on interpersonal trust. This section of the chapter is divided into two parts. In the first part, 'Construction', I look at the factors that influenced the cultivation of interpersonal trust between the police officers and the women in these case studies. In the second part, 'Destruction', I look at the harms to interpersonal trust that resulted from the rape of the women in the case studies. These rapes are conceived of as gross violations of interpersonal trust.

Thereafter, I analyse the construction and violation of self-trust in the cases under consideration. I will also show how systemic forms of oppression work to undermine self-trust. This part of the chapter is divided into three sections which follow Brison's (2003: 38) description of the shattered self: the embodied self, self as a narrative and the autonomous relational self (as per Brison's description). I argue that the harms to the self are compounded by shame and self-blame in cases where sexual violence occurs within a trusting relationship.

I thus also trace the construction and destruction of self-trust, but across the different sub-sections, rather than within two separate sub-sections as with interpersonal trust.

Finally, I analyse institutional trust. This section is be divided into two parts. First, I look at the role institutional trust played in the trusting relationship established between the victims and perpetrators in the case studies. I look at the social role police officers typically play, and how these officers relied on their institutional power and authority to build trusting relationships, and how this trust was then used against the victims. These trusting relationships were then used to lure in and manipulate the women in the case studies. Second, I look at the harms that result from violations of institutional trust. I look at the *prima facie* argument for vicarious liability, based on how the trusting judgements that were built between citizen and state would likely not have been possible without the institutional affiliation of the policemen. I argue that violations to institutional trust were compounded in these cases, first through the criminal actions of the perpetrators and second through the lack of accountability and the inaccessibility to justice afterwards. I then look at how this impacts the authority and legitimacy of the SAPS and ultimately of the democratic state itself.

#### ***4.1. Interpersonal Trust***

##### ***Introduction***

In this chapter, I argue that a network of interconnected forms of trust played a role in the trusting relationships established between the women and policemen in the case studies. In this section, I specifically interrogate the construction and destruction of interpersonal trust in the three case studies. The first half, ‘Construction’, explores how trust was built up between the perpetrators and victims. It looks at the factors that influenced the victims’ trusting judgements. Here, I argue that there were distinct interpersonal factors that contributed to the construction of trust between the parties, which can be meaningfully distinguished from both self-trust and institutional trust. When we entrust another person with something precious, in this instance personal and physical well-being and sexual integrity, we gauge and determine the other’s trustworthiness. In this section, I apply the considerations and factors involved in interpersonal trust, as laid out in sections 3.2.1. and 3.2.2. I look at the significance of the words and actions of the policemen for the cultivation of interpersonal trust between themselves and the truster. Thereafter, I look at the role that risk and systemic risk (vulnerability) played in the formation of these trusting relationships. In particular, I investigate the role that each victim’s vulnerability played in their ability to trust (and thereby to implicitly accept a certain risk).

Additionally, I consider how it was the particular vulnerability of each victim (truster) which influenced the actions, and possibly also the intentions, of the perpetrator (trustee).

The second half of this section, ‘Destruction’, looks at the consequences that follow the violation of interpersonal trust. In particular, I investigate the harms that resulted from the violation of the interpersonal trusting relationships that were established in each case study. I draw on the theories discussed in section 3.1.2., to unpack how generalized trusting attitudes, which entail a positive expectation of others, can be jeopardized by severe violations of interpersonal trust. I explore the danger that mistrust will develop into distrust in these cases. I furthermore apply Fricker’s (2007: 4) analysis of testimonial injustice to the case studies to show how patriarchy, sexual violence and interpersonal trust violations work together to influence how women are listened to and how they are able to contribute to the shared pool of knowledge. The testimonial injustice faced by women in the aftermath of sexual violence has the potential to shift the attitudes of individuals, and social groups, from trusting to mistrusting. I explore this further below.

#### ***4.1.1. Interpersonal Trust: Construction and Destruction***

##### *4.1.1.1. Construction*

As indicated in the previous chapter, there are various sources of information that are utilized in the process of forming a trusting judgement about someone. When we are deliberating trusting someone we have known personally, we rely on our direct knowledge, which is often also supplemented with indirect knowledge (what others say about the person we are considering trusting). In my view, the social role of the perpetrators played a big part in the case studies, but a full discussion of this factor will be reserved for the section 4.3. on institutional trust. In the current section, I will therefore not focus on the police officers’ social role, but suspend that dimension, and rather just look at how other aspects of interpersonal communication, such as actions, words, and body language, played a role in establishing interpersonal trust.

As discussed in section 3.1.1. in the previous chapter, we are generally guided by the positive expectation that what other people present to us is the truth; we cannot function in the social world without such broad positive expectations about others and ourselves in relation to them. We only deviate from this default position and consciously determine whether or not to extend (and to what degree) trust to a person when we find ourselves in particularly precarious

positions. Often, when deliberating the trustworthiness of strangers, we do not have past experience to draw on. In these situations, we draw on indirect knowledge, book knowledge, knowledge of the other person's social role and, importantly, we tend to carefully, assess the actions, words, and body language of the (potential) trustee. In fact, when we are in need of immediate support and thus, in a sense, forced to trust another person for assistance or protection within a short space of time, we are likely to scrutinise their interpersonal cues more intensely. Where we are expected to make quick, important assumptions about the trustworthiness of another person, we do so by evaluating what the potential trustee presents to us. The meaningful communication aspect of trust takes on a heightened importance because the need for support or assistance is great and the evidence of reliability is scant. We listen to the words the person speaks and assess their actions, tone of voice, demeanour, and facial expressions.

In all three of the case studies, the victims (K, F and Rebecca Mosepele) attempted to gauge the intentions, motivations, and competence (reliability and trustworthiness) of the men on the basis of their words, actions, and body language. The perpetrators in these cases (Nathaniel Rammute, Ephraim Gabaatholwe, Edwin Nqandela, Allister Claude van Wyk and JK Mokgethi), presumably sensing the vulnerability of the women and their need to trust somebody for assistance and knowing that they were strangers to the women (at least in the case of Van Wyk and Rammute), went out of their way to present themselves as trustworthy, helpful, and sincere. In all three of these cases, it was the police officers that offered to assist without first being approached by the victim. They thus initiated the potential trust relationship, essentially inviting the women to trust them for protection and safety while in a vulnerable situation. It is important to note that girls and women in South Africa are aware of the realistic and pervasive threat of sexual violation (Gqola, 2015: 79). This means that in the case of male strangers, women and girls could develop a default attitude of distrust. The prospective rapists knew this and worked against this learnt distrust in order to present themselves as an exception, as trustworthy. Their behaviour can thus be construed as communicating a promise or warrant: first, that they would not harm the women and, second, that they would protect them from being harmed or threatened by others.

Thus, it was Sergeant Rammute who, upon hearing K complain to the cashier at the garage, proceeded to offer K a lift home. It was Detective van Wyk who, upon seeing F stranded, offered her a lift home. In contrast to the other two cases, Rebecca and JK Mokgethi were not



strangers. Mokgethi had actually assisted Rebecca before by helping to protect her against an abusive boyfriend. In other words, his previous behaviour had already established some level of trust. He knew her by name, which likely created a sense of familiarity and created the expectation that he had benevolent and good intentions towards her. It was Constable Mokgethi who saw Rebecca coming out of the Shoprite with her shopping bags, called for her by name, asked her where she was going and offered her a lift to the taxi ranks. As discussed in section 3.1.4., when we trust, we do so in a temporal manner that speaks to the constant cultivation and negotiation of trust. We do not entrust everyone with everything. Mokgethi promises her a simple thing – to take her to the taxi ranks – which means that *prima facie* she entrusted him with something trivial. However, because she had misjudged his character and intentions, she did not realise she was really entrusting him with her sexual integrity and her life. The fact that these officers went out of their way to present themselves as trustworthy and sincere while harbouring negative intentions (and a desire to take advantage of these women), is particularly sinister. It is this calculation and deception that is cause for alarm. These men could have left these women alone; they could have not spoken to them or offered them assistance. They could have driven away and carried on with their day, but they intentionally set out to offer assistance to K, F and Rebecca Mosepele respectively. They decided to invite the women to trust them. In other words, they intentionally set out to commit rape.

I argue that, above and beyond the institutional trust that influenced the establishment of trusting relationship in these cases, the police officers in these cases intended to establish a personal, interpersonal trusting relationship by projecting sincerity and helpfulness. They did not, therefore, only rely on their institutional role but also presented themselves as friendly, helpful, and trustworthy *individuals*. As such, this is what they explicitly communicated to the victims. Additionally, I argue that the women in the case studies would not have formed trusting judgements about the respective officers if they had projected attitudes of unhelpfulness, insincerity or rudeness. For example, had the women approached the officers and had they responded with either indifference or rudeness, the women would have looked elsewhere for support. These officers went out of their way to be perceived as helpful, while simultaneously calculating how they were going to take advantage of these women.

In the case of K, Rammutle, Gabaatholwe and Nqandela dropped all pretences of friendliness once K was in the car, and thus completely at their mercy. They did not converse with her but rather conversed in a language K did not understand. This was in stark contrast with her initial

encounter with Rammutle, during which he was working to win her trust and conversed with K in Afrikaans (*K v Minister of Safety and Security*, at 4). To emphasise the temporal nature of trust once again, it could be argued that K started doubting her trusting judgment when the police officers started to converse in a language that she could not understand, excluding her from the conversation. Then, once she was in his power, trapped in the car together with him and his colleagues, changed his behaviour suddenly which could have started eroding her trust in him. It is presumed that the officers communicated their collective intention to entrap and rape K during their private conversation. In the case of F, Van Wyk dropped the other passengers off first, so that he could be alone with F and assault her. In the case of Rebecca, Mokgethi offered to drop her off at the taxi ranks but then drove to a house to attack her. These officers intentionally went out of their way to build trust with the victims for the sole purpose of gaining access to them and creating an opportunity to commit rape. They, in effect, approached the women, who they had realised were vulnerable in a general (systemic) way, promised them safety, and gained their trust so that they would become hyper-vulnerable to them and be completely at their mercy and under their power. Recall the distinction made above in section 3.1.2, where I discussed the difference between risk and systemic risk (vulnerability). These men calculated the systemic risks the victims faced in these situations. It was under these conditions of specific and intensified vulnerability that the perpetrators raped them. The perpetrators abused their heightened power over these women in a particularly pernicious way.

It should be emphasized that the assaults of K, F and Rebecca Mosepele did not occur in isolation from their positionality as women (and, in F's case, as a child) in society. I argue that the intentional projection of 'helpfulness' and 'sincerity' by these officers was an attempt to take advantage of the risky situations that these women found themselves in prior to their assaults (specifically, being stranded in the early hours of the morning, in the cases of K and F). Furthermore, the perpetrators also preyed on their systemic (general) vulnerability in society (as a working-class young woman, a child and a Black woman, respectively). These vulnerabilities (prior and post the assaults of these women) arise based on the systems and networks of power that exist in our society. These socio-political vulnerabilities are often situated in the combined class, gender and racial oppression that marginalized demographics face. It was these socio-political vulnerabilities which the perpetrators then proceeded to exploit. As discussed in section 3.1.2., in every trust judgement/relationship, there is some element of risk. However, where this risk is accompanied by socio-political vulnerability, it means that the potential risks are exacerbated in two ways. First, the harms resulting from a

violation of trust can be considerably worse than the harms that would have manifested if the victim were not vulnerable or precarious in this way. This means the harms resulting from violations of trust are more acutely felt where the normal risk involved in trust is compounded by the disenfranchisement that comes with systemic vulnerability. The assault of K speaks directly to this: K trusted that Van der Westhuizen would give her a lift home, as he had promised, and risked being left stranded if he broke her trust. Ultimately, this risk came to pass, and she was left stranded. However, the risks associated with Van der Westhuizen's violation of her trust were compounded by the fact that she was a young woman in South Africa and thus faced greater danger as a result of her being stranded, without transport of her own, far away from home at 3 am. Her risk interacted with her vulnerability and, as a result, the harms she could have faced, and did actually face in that situation, were exceedingly worse than the risks or harms that a white male may have experienced in a similar context.

Second, these vulnerabilities play an important role in how perpetrators calculate their assault, as I have discussed above. The fact that F was a minor most likely played an important role in Van Wyk's manipulation and assault of F. He purposefully manipulated and lied to her and was able to do so successfully because he played on the disparity (of power and authority) between him as an adult and her as a minor. He likely anticipated her inability to stand up to a figure of authority (who was an adult, male, and a police officer) and this allowed him to lie with ease in order to generate an opportunity to assault and rape her. When F grew suspicious of Van Wyk because he was driving in the opposite direction of her house, Van Wyk lied and said he would drop her at home after he had visited some friends. Based on Govier's (1997: 67) theorisation of trust and age, as laid out in section 3.2.1., F's ability to gauge the intentions of others as a 13-year-old child differed from an adult's abilities because children tend to trust naively or implicitly instead of reflectively. This meant that F was more likely to accept what was presented to her than question the intentions of a seemingly sincere adult. After F grew suspicious of Van Wyk's intentions, she escaped his car. It is once again important to track the temporal dimension of trust. F initially trusted Van Wyk when she accepted his offer of a lift home. However, as the trip progressed, she started doubting her trust in Van Wyk. Despite F's young age, she did sense that something was wrong, and Van Wyk had to work to regain her trust. After F escaped, Van Wyk still sought the opportunity to exploit her vulnerability in order to assault and rape her. He very likely anticipated that, because the area was abandoned, it was unlikely that anyone would drive by and, even if someone drove by, it was unlikely that F would be offered a lift. As such, he circled back around and assured her that she would be safe.

In other words, he lied to her once again, in order regain her trust, and exploited her naivety and vulnerability. Because F did not have a viable alternative, she decided to trust him again. Afterwards, she may have questioned her own judgement more than an adult victim would have and this may have resulted in a greater harm to her self-trust, which was still being developed.<sup>34</sup> Even after Van Wyk had assaulted F, he threatened to harm and even kill her if she reported the assault to anyone. In threatening F, Van Wyk once again exploited her vulnerability, which in turn seems to have been rooted in the fact that she was a frightened and naïve child who had just been subjected to sexual violence. In this manner, he believed that the power he had established over her, and her fear of him as a policeman, combined possibly with a sense of shame<sup>35</sup> and complicity, would extend into the future, prohibiting her from laying a complaint.

In all of these cases, the victim's vulnerability was first and foremost based on systemic relationships of power. In each case, the calculation of vulnerability, which informed the perpetrators' actions, turned on the asymmetrical relationship of power that existed between perpetrator and victim. In each case, the men in question had power because they had access to resources (cars, petrol, money, and even firearms) that these women lacked and/or were in need of. In addition to the resources that these men had at their disposal, they also had power because of their identities as men and police officers. The women in these cases did not have powerful identities themselves and used the eventual perpetrator's identities to calculate the risk of trusting them. It seems that the women all thought that the men's identities as police officers indicated that they would actually help them to mitigate some of the vulnerability that they already faced as a result of their circumstances (being stranded in the early morning or walking home with groceries). Paradoxically, the tools that the women hoped that they would gain access to in trusting the police officers became the tools that were used to gain physical control over them. These perpetrators were aware of the fact that they were in positions that afforded them a great deal of power in relation to their victims. Again, it is precisely this power, and the fear it causes, that they held over their victims. This fear can remain pervasive in the lives of victims long after the physical assault has passed. In the case of Rebecca Mosepele, Constable Mokgethi threatened her by saying that she could choose to sleep with him, or he would shoot her, while pointing his firearm at her. He made use of a visceral display of power:

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<sup>34</sup> This issue will be further explored in section 4.2.1.1.

<sup>35</sup> This issue will be further explored in section 4.2.1.3.

Rebecca's safety, her humanity and her (non)consent were all compromised by the overarching power Mokgethi held over her as a vulnerable working-class Black woman. The intersection of race, class and gender plays an important role in understanding Mokgethi's targeting of Rebecca. In her book, Pumla Gqola (2015: 52) writes:

Rape of Black women, as I have shown, was central to slavery, colonialism and it is, as Sue Armstrong points out, a legacy of the past that stretched into the present, beyond the boundaries of apartheid.

Gqola (ibid., 31) also writes about 'believability', akin to Fricker's concern about credibility deficit, discussed in section 3.2.3. The concept of believability is linked to the idea of 'the perfect rape victim' which, in turn, draws on stereotypical notions of femininity and rape. Who is the stereotypical rape victim in our collective imagination? What is the stereotypical story of rape? These questions feed into who is believed about rape and thus who is granted vindication and protection after an assault. Gqola (ibid.) writes that when a rape victim steps forward and says she has been raped, both plausibility and credibility are required. Plausibility is about the listener and credibility is based on the victim telling the story of their rape. Gqola (ibid.) writes:

To be believable, the speaker has to fall into a category that is seen as possible-to-rape; it has to be someone who can be raped. Not all people are seen as possible-to-rape. Sex workers, wives, slave women and men are all categories of people that have at different stages been placed in the category of 'impossible-to-rape'. This does not mean that nobody raped them. It means that when they were sexually violated, it was not recognised as such, legally and socially.

The targeting of the women in these cases speaks to the intersections between the socio-political vulnerabilities of these women, and how they match up with the stereotypes of the 'believable' rape victim. Gqola (ibid., 53) writes:

Black women are the most likely to be raped because of these combined histories about who matters least, not because of specific essences of Black men; it still bears noting that across categories of men, not just white colonist men, rapists rape the women

longest burdened with assumptions of unrapability. Still, all women are in danger of rape.

Gqola's analysis of rape and race is extremely important for understanding these case studies. It highlights the calculating nature of the (sexual) predators who likely draw on these systems of oppression and use them to calculate who is vulnerable in society and who is less likely to be valued, protected and believed. Gqola's writing supplements Fricker's argument regarding testimonial injustice, which was discussed in section 3.2.3. In these cases, the perpetrators must have known, if only subconsciously, that these women were unlikely to be believed if, in spite of their fear, they decided to make a case. They therefore also took the women's social standing into consideration in their calculation of risk to themselves.

In her book, *Rape Unresolved: Policing Sexual Offences in South Africa*, Dee Smythe (2015: 200) writes:

For most of the complainants in this study the context is one of grinding poverty. Their class status dictates their risk of victimisation, the resources that they can call on to cope with the effects thereof, and their ability to make demands on the criminal justice system.

As a result, and because of the way in which power and vulnerability are set up in our society, the targeting of these women was not random. Rather, the perpetrators decisions were intentional and calculated and informed by the layers of social vulnerability that underlay the women's immediate, situation-specific vulnerability. This includes, as Smythe (2015: 200) highlights, a calculation of the possible, or likely, repercussions which may follow for the perpetrators. It is important to highlight that, while we might draw on various sources to inform our trusting relationships, the politics of power and vulnerability are deeply centred in all of these relationships and interactions. Interpersonal trusting judgements and relationships are at least in part, built on the foundation of the social and political landscape around us, and its landscapes of unevenly distributed power. Sexual violence within trusting relationships especially operates on the bedrock of these systemic hierarchies and enduring vulnerabilities. As a result, the sexual violence within these relationships of trust has profound effects on victims' abilities to form interpersonal trusting relationships. I unpack this further below.

#### 4.1.1.2. *Destruction*

We utilize both trust and mistrust in our everyday interactions and as we navigate through our social world, as discussed in section 3.1.2. In this section, I unpack the harms that follow violations of interpersonal trust. I specifically focus on two harms that may result from severe violation of interpersonal trust. The first sits with the individual and occurs when trauma and (sexual) violence undermines one's ability to form interpersonal trusting judgements with other people. I again draw on the difference between mistrust and distrust to illustrate these harms. Second, I unpack Fricker (2007: 4) and consider the systemic impact that sexual violence has on a victim's ability to be heard. In particular, I explore the impact of testimonial injustice, as laid out in section 3.2.3., in relation to the cases of K, F and Rebecca Mosepele.

As discussed previously, mistrust is a healthy dose of scepticism that is needed to navigate the world. It allows us to be critical in situations that require it and allows us to achieve the best outcome in these situations. Experiences where one has trusted and been disappointed or betrayed can cause a person to avoid trusting others in similar situations. Very often we extend opportunities of trust towards other people because cultivating and maintaining trust is important to human beings as social creatures. However, the trauma and violence inherent in rape is such that it jeopardizes our ability to connect with other people. Rape is a deeply interpersonal and deeply invasive assault. It is not a subjectless crime. Rather, perpetrators in these cases violate and assault with intentionality and inflict pain, suffering, and dehumanisation onto the victims of sexual violence. When an assault is preceded by a trusting relationship, it can irrevocably shift our ability to relate to, and communicate with, other people and lastingly/enduringly endanger our ability to form trusting relationships with others. I argue that, in the cases of K, F and Rebecca Mosepele, the harms felt in the aftermath of rape and assault are even more deeply situated because these assaults were preceded by trusting judgements. It seems that the harms are different to the harms that occur in cases where rape is committed against a victim without them having first formed a trusting judgement. Rapes that are preceded by the formation of trusting judgements potentially have a greater impact on the capacity to form new (and maintain existing) trusting judgements regarding other people.

In a documentary called *Country for My Daughter*, which was directed by Lucilla Blankenberg, K was interviewed by Nonkosi Khumalo (2010). In the interview Khumalo asks K, "So, what has changed in your life after the attack?" K replies, "I was very outgoing. I had many friends.



I would do anything exciting. But after the incident I lost a lot of friends. Now I'm a very difficult person. I don't make friends easily; I don't go out easily. All that has been taken from me." This speaks to the consequences that rape and trauma can have on our ability to connect with other people. It is important to highlight that, while there are severe traumas generally associated with rape, K was assaulted and raped by three men and it seems that her being a victim of such gross violence may have irreparably changed her outlook towards other people, especially strangers. In this case, the experience of interpersonal trust violation seems to have changed the core of her personality.

I argue that it is most likely that the victims in these cases shifted from having a generalized trusting attitude (that is still reflective and negotiated) to one that is characterized by distrust. This means that K, F and Rebecca Mosepele would, after their assaults, view people with unhealthy cynicism and suspicion. Because their assaults followed trusting judgements, and were so terrifying and violent, they shifted the victims' positive expectations. It seems that, in the aftermath of rape, their well-adjusted trust and mistrust became debilitating distrust. As unpacked above, distrust refers to an overarching belief that no one should be trusted which includes the belief that the community or society is so broken that trusting relationships are not possible. Based on these beliefs and the actions of others, they may assume that other people cannot be trusted, that it is always too costly to trust others with their interests. This attitude is unhealthy, illogical, and indiscriminate, when compared to the healthy and necessary use of trust and directed, limited, mistrust. Distrust is an overarching belief that people are deceitful and malicious and that they should never be trusted. As illustrated by K's interview, it can leave the distruster socially paralyzed and isolated. I argue that women who have experienced brutal and violent assaults will likely experience a major shift in their ability to form trust judgements, particularly if the assaults followed their making trusting judgements about men who seemed 'helpful', 'sincere' and 'kind'. I argue that the violation of interpersonal trust in these cases was so horrific that it had the ability to (for however long) alter the victims' perspectives regarding the trustworthiness of others. In other words, it is likely that a generalized trust in the world and in others has been transformed into a generalised distrust of others and the world.

Distrust does not only denote a belief in the untrustworthiness of others; it is a belief about the very fabric of our social world. Specifically, it is the belief that one lives in a world where transparent, sincere and trustworthy people do not exist, and where vulnerability consequently



translates into traumatic exploitation. The fact that the perpetrators in these cases were so calculating and deceitful in their projections of trustworthiness could cause the victims to view all strangers as potentially deceitful, including well-intentioned ones. An individual who distrusts in this general way would be unable to function in our social world because we are reliant on trusting judgements and relationships to function and operate daily. Interpersonal trusting judgements involve risk, and thus would become impossible for these victims because they generalize their experience (of taking a risk and trusting an apparently trustworthy person but then having the worst possible outcome materialize) and avoid taking the risk of forming a trusting relationship again. It would be unimaginable to permanently live in such a state and this sort of distrust could even prevent an individual from seeking help and support from their close family and friends in the aftermath of assault. While we do not have enough evidence on the women's experiences in these case studies based on the literature this distrust is what many victims of sexual assault experience. This is vividly described by Brison (2003: 16), who describes having to painfully renegotiate and rebuild trust in her close relationships over time.

As previously discussed in section 3.2.3. Fricker (2007: 4) conceptualizes the testimonial injustice that occurs when prejudicial stereotypes determine who is heard in society and who is not. Victims of sexual violence are often systematically silenced and neglected in both private and public spaces. With regards to the private sphere, people with whom one shares personal relationships (usually family and friends) often have a hard time grasping, or relating to, the experiences of a loved one who was raped. Brison (2003: 10) writes that even her close family and friends struggled to make sense of her assault: some tried to rationalize it by questioning her attacker's motive, suggesting that attack was a (failed) mugging or urging her to get over the assault and move on with her life (2003: 16). This, of course, compounded her alienation because she was alienated from the people closest to her and, thus, her most formative, sustaining and enabling relationships. It seems that one's sense of betrayal would be especially severe in cases where a trusting relationship was deliberately established prior to the assault, and that this sort of assault would also leave an expanding circle of crumbling interpersonal trust relationships in its wake. It is not only the perpetrator that the victim distrusts; the victim distrusts everybody because, fundamentally, she has lost faith in her own ability to wisely and safely trust her judgements if trustworthiness, which enable her to form interpersonal trusting relationships. This provides some clues about how severe violations of trust, such as rape, affect a person's self-trust, which is the topic of the next section. The hyper-visibility of being a sexual assault survivor and having to explain one's own assault to others,

while simultaneously struggling to be heard by those very same people, can alter one's ability to relate to others, including the people with whom one had thick trusting relationships previously. In the case of F, her ability to communicate and relate to other 13-year-olds would likely be seriously compromised, especially if others are unwilling to listen to her. She very likely would struggle to communicate with, and relate to, her peers and possibly, also her family members. What would she tell her siblings and her parents about what had happened to her, and how would they react? How much victim-blaming would be embedded in their responses? What invasive questions would parents of other children, teachers and other family members ask her about her assault? What judgements would they pass which would hinder their ability to listen to her attentively and take her testimony seriously? These sorts of questions, and the likely inability of others to listen to and understand victims' experiences and feelings, may undermine victims of sexual violence as subjects in the world. Victims' ability to contribute to the collective may also be undermined. In other words, victims may be detached from, and unheard by, the collective.

In the public sphere, the 'routine' adversarial nature of the criminal justice system often results in victims being treated without sensitivity. Victims are often exposed to additional humiliation due to 'clinical' processes, which include having to repeat one's statement at a police station, having one's body examined by a doctor and testifying at the trial in front of one's rapist. Brison (2003: 8) recalls the following details about the period directly after her assault:

I was greeted by two male doctors I had never seen before. When they told me to take off my clothes and stand in the middle of the room, I refused. I had to ask for a hospital gown to put on. For about an hour the two of them went over me like a piece of meat, calling out measurements of bruises and other assessments of damage, as if they were performing an autopsy. This was just the first of many incidents in which I felt as if I was experiencing things posthumously.

In unconscious ways, the professionals who are supposed to support the victim, echo the logic of the rapists: just as K was ignored and excluded from the discussion inside the police car, then smothered and punched and raped, Brison is treated as an impersonal object by the doctors who treat her injured body as an object bereft of human dignity. Similarly, K, F and Rebecca Mosepele all had to go to a police station and report their rapes and assaults to another police officer, who might be indifferent or even hostile given what their complaint entails. Given the

scarcity of police resources in South Africa, it is very likely that the victims of assaults by police officers will have to report their assaults at the very same police station where the perpetrator/s works or at a neighbouring station where the perpetrator/s are known and might hold respect and authority. I discuss the effects of reporting rape at a police station after being raped by police officers in greater detail under institutional trust below. However, apart from the institutional implications, victims who are raped by police officers suffer severe interpersonal harm when they report their rape and assault and, thus, extend trust to men and women who share a professional affiliation with their rapist. The systemic prejudices and stereotypes that play out in the reporting of these crimes are likely to be saturated by epistemic injustice, as theorized by Fricker (2007). For instance, Rebecca Mosepele had to form trusting judgements with police officers once again when she went to the police station to report the rape committed by Mokgethi. In this regard, the two policewomen who took her statement were entrusted with her safety and protection and the stark vulnerability which she experienced in the aftermath of her assault. These two policewomen then violated her interpersonal and institutional trust by interviewing her in the presence of the (alleged) perpetrator (*Mosepele v Mokgethi*, 4). It is unimaginable that one's ability to form interpersonal trusting judgements (especially where one's safety and dignity is on the line) would not be irrevocably harmed by this type of encounter.

The identity-prejudicial credibility deficit which Rebecca Mosepele experienced when trying to report her assault to these policewomen meant that she was not listened to and was effectively disbelieved and silenced. This silencing could occur because of Rebecca's socio-political identity as a working-class Black woman, who was especially vulnerable because she lived in an abusive household. In this case, Mokgethi's power and authority stand in stark contrast with Rebecca's multi-layered vulnerability. Where victims of sexual violence are not listened to, and where society holds prejudices against them, a violation of systemic interpersonal trust occurs after the physicality of the assault has passed. Thus, a double injury is inflicted on those whose situational vulnerability is underpinned by systemic vulnerabilities: the first injury is the actual attack and the second injury is the attack not being acknowledged as a serious harm by institutional powers. Society's failure to trust these women and listen to their experiences means that they are unable to cement themselves in our communal (social) imagination and they are erased, or invisibilized, because they are prevented from contributing to the 'shared-pool of knowledge'. Were these experiences listened to and heard in a meaningful way, it would alter the collective reality of our society insofar as these experiences

work to build a narrative about who belongs, who is vulnerable and who is in need of protection. If these women's stories were listened to a meaningful way, it seems that there would be mass advocacy for improved accountability and reform of the police service to make sure these types of assaults do not happen again. Interpersonal trust works both ways, when the victims withdraw their trust from their friends, family and community, the wider circle is likely to also withdraw their trust from the victims. In the process, victims are treated like outsiders, blamed for their assaults, and stereotyped. In turn, the community is alienated from these women. In other words, gross violations of interpersonal trust, such as sexual violence, endanger and harm multiple interpersonal relationships.

### ***Conclusion***

I have argued that there are specific factors that influence trust judgements. With regards to the trusting judgements that were formed in the three case studies, I have emphasized the temporal dimension of trust, the developmental stages of trust and the standard and systemic risks (vulnerability) involved in trust. In the aftermath of violations of interpersonal trust, particularly sexual violence, the rebuilding of interpersonal trust can be hindered by patriarchal notions of victim-blaming and the systematic silencing of victims. When victims try to voice their experiences, and thus contribute to the collective, prejudices act as barriers which prevent them from being heard. A violation of interpersonal trust can extend beyond the violation that the assault itself entails. The violation of sexual violence can be compounded when victims are denied the opportunity to speak on their experiences and reaffirm their belonging in society after the assault. One of the most important processes for victims and survivors of sexual violence is reintegration into society and community. A reimagination and reaffirmation of one's rightful place in society and in relation to other people, which can be achieved through the (re)building of interpersonal trust and self-trust, is sorely needed. Below, I unpack this reaffirmation more closely and investigate the violations and harms of sexual violence for the autonomous, relational self.

## ***4.2. Self-Trust***

### ***Introduction***

One can only nurture and grow their sense of interpersonal trust through successful trust experiences. Self-trust is no different. Self-trust grows through past experiences, which inform our understandings of ourselves and others. Again, it is clear that all forms of trust have a strong temporal dimension: well-placed, well-founded trust judgements develop over time and

through the maturation of a person. Whenever we rely on ourselves to form interpersonal or institutional trust judgements, we are, in fact, utilizing self-trust; a basic trust in our own judging capacity is required for all other forms of trust to exist. We rely on self-trust to navigate a complex social world and to negotiate our personhood within it. As discussed in section 3.3, self-trust is foregrounded when we are in difficult situations which entail high risks or where we doubt ourselves. Typically, we do not give self-trust much thought until it is threatened or undermined. In the aftermath of a violation of self-trust, one usually reflects deeply on the nature and necessity of self-trust. Similarly, it is only when we are gasping for air or out of breath that we reflect on the unconscious ease with which we usually inhale and exhale and the importance of breathing for our everyday lives. It is only once this seemingly ordinary aspect of our existence is threatened that we reflect deeply on its mechanics and necessity. It is in situations where the self is fractured through negative outcomes that we step back and reflect on the necessity and meaning of self-trust.

Self-trust, as Brothers (1996: 31) rightly puts it, “is the glue of the self experience”. This means that both our ability to rely on others for support and to develop autonomy as individuals are directly related to the development and nurturing of self-trust. As discussed in section 3.3., trusting in one’s self means that we believe that we can gauge the world, take in all its complexities, and find a way to belong and to navigate our needs. Self-trust enables us to navigate this complex world, find our place in it and interact with others in meaningful ways that are neither overly dependent on, nor overly mistrustful of, others. The ability to trust in one’s self (particularly our ability to make good trust judgements in situations of risk) greatly contributes to mitigating feelings of anxiety, loss of control and uncertainty that the infinite unknowns of the present and future might entail. I argue that rape has the ability to rupture our sense of self and our basic self-trust: it shatters our ability to situate our self (including our positioning and safety) in the world.

I already discussed in section 3.3.3., how systemic oppression of a patriarchal society can compromise the sense of self and self-trust of women and girls. I now further explore the personal harms that victims are likely to suffer in the aftermath of their trust being violated through sexual violence. I explore Brison’s (2003) theorization (in section 3.3.3.) in relation to the case studies of K, F and Rebecca Mosepele and argue that sexual violence leaves a “shattered self” in its wake. A person whose sense of self is shattered may struggle to feel connected to her own mind and body and the world around her. Brison (2003: 38) characterizes

the self as embodied, a narrative construct and as autonomous and relational. I argue that the effects of sexual violence on the autonomous, relational self are even more impactful and damaging when sexual violence followed the formation of a trusting relationship, than if such a relationship had not been established. Sexual violence creates greater self-doubt and shame in the victim. I argue that this is doubly the case when a trusting judgement is what enabled the occurrence of the sexual violence. In these instances, the self is further shattered and the journey of returning to one's self is even harder. I explore these arguments below.

#### ***4.2.1. The Shattered Self***

As explored in the previous chapter, Brison (ibid.) provides an account of how interconnected aspects of the self (namely the embodied self, the self as a narrative and the autonomous relational self) are harmed by sexual violence. Recall in section 3.3.3., I explored how sexual violence shatters the interconnected self. Below, I apply Brison's (ibid.) theorization to the case studies presented in chapter 2. I explore how the rapes committed by the perpetrators shattered various aspects of the self for the women they raped.

I argue that, because the violations of K, F and Rebecca Mosepele were premised on trusting judgements that relied on self-trust, the harmful effects for the autonomous relational self are even more devastating than they would be in cases where a relationship of trust did not exist. In other words, I argue that sexual assault which follows from a trusting judgement exacerbates factors, such as shame and self-doubt, which further jeopardize a victim's sense of self. This means that rape and sexual assault following trusting relationships have greater power to harm the victim's sense of her choices, capabilities and her actions going forward. However, this is not to deny that these factors might also exist in other cases of rape and sexual violence. I argue that the violence and trauma inflicted on the women in these case studies shattered their (embodied, narrative, autonomous and relational) sense of self and left behind a displaced sense of self.

##### ***4.2.1.1. Embodied Self***

Brison (ibid.) unpacks how the destruction of the self, which follows sexual violence, encompasses the shattering of the various aspects of the self. The first aspect is the embodied self. Brison (2003: 41) writes that sexual violence negatively impacts the embodied self because it disconnects the body and mind from the self. Both the mind and body are in the process alienated from the former self and both work to overcome the trauma of sexual

violence. The mind and body each in its own way, attempt to rebuild the self by attempting to regain a sense of control and agency in the aftermath of rape. The body attempts to regain control through acts of resistance in order to (re-)establish control; cutting one's hair or developing an eating disorder are common examples of these sorts of acts of resistance (Brison, 2003: 49). The mind undergoes a similar process of dissociation, depression, heightened vigilance, and anxiety. The effects of rape and trauma are acutely felt in both the mind and body and are manifested in an interconnected way. For example, anxiety in the mind results in anxiety attacks that can further manifest in corporeal effects such as hyper-ventilating, shortness of breath, and body shakes.

I argue that these effects might have (to different degrees) been experienced by the women who were raped and assaulted in the case studies. K, F and Rebecca Mosepele would likely have undergone a similar process of trying to reconfigure the relationship between the mind and body and the self. For K, who was raped by three different men, the effects on both her mind and body in relation to her now shattered sense of self would likely have been so severe that she would have needed considerable time and support to overcome these damaging effects. Brison (2003, 46) writes that one of the ways in which sexual violence creates a disconnect between mind and body and fractures the self is in the very act of rape. Sexual violation and rape displace and erase completely the intentions (saying no and pushing against an aggressor) of the victim as these are replaced with the actions and violent intentions of the perpetrators (ibid.). In this way, the victim's self (conscious will) is as it were extricated from her own body (ibid.). Brison (ibid.) describes this as "temporary social death" and argues that victims require great effort and support in order to resurrect their sense of self. The applicability of the term "social death" is particularly chilling and horrific in the case of K because Rammutle, Gabaatholwe and Nqandela (her attackers) treated raping her as a 'social activity'.

When K was raped, these three men came together with the intention to violate her as a group. It seems that, when these three men came together as a collective to rape K, K would have experienced an extreme sense of violation and isolation. This may have greatly impacted her (relational and embodied) self because her own will and agency over her body and mind were stripped from her in a highly social manner. It matters that more than one person insisted on 'murdering' her and her 'social death' starts already here, even before anyone else knows. There are witnesses to her degradation. Then it is starkly extended to her friends and family. Recall above where K said in an interview that she lost many friends and has since struggled



to form new relationships (2010). Therefore, in the aftermath of the rape, she struggled to regain this agency and control over her mind and body in relation to her sense of self, and in relation to others in her social world. This violation desecrated, shattered, and eclipsed the sense of self she once had, replacing it with feelings of powerlessness and lack of agency over what both her mind and body were experiencing in those moments. Her old sense of self, with agency and self-trust, was replaced with an acute sense of a self that had been actively and intentionally dehumanised, and rendered helpless, fully at the mercy of cruel others. In the account provided in the court case (*K v Minister of Safety and Security*, 3), K had a jacket thrown over her head which the perpetrators only removed after they had taken turns raping her. It is not uncommon for victims of sexual assault to dissociate during moments of extreme violation and the effects of dissociation from the self being violated could persist long after the assault. Her dehumanisation and de-personalisation vividly expressed in the jacket covering her head, could not but affect her very being for a long time afterwards. In the aftermath of that experience, K would have to try to come back to her self; somewhere between the irretrievable old self and the dehumanised new self she would have to rebuild the shattered self (both in its body and mind). K would have to regain a sense of control over her mind and body in an attempt to re-establish a relationship with her sense of self. I imagine that this could only be achieved with great difficulty and through assistance from a variety of supportive networks.

F was a child at the time of her assault and thus had probably only just begun to understand and experience her embodied self. Recall in section 3.2.1., I explored Govier's (1997: 66) argument that trust is temporal in nature and interacts with age. When Van Wyk raped F, he radically damaged her ability to follow a 'normal' trajectory of experiences that would slowly enable her personal growth (including the ability to trust) into adulthood. In this respect, Linda Martín Alcoff (2018: 21), in her book *Rape and Resistance: Understanding the Complexities of Sexual Violations* speaks of her own sexual assault at the age of nine. She (2018, 22) recalls how it took her completely by surprise and in the aftermath, as a child, she did not have the language to explain or process what had happened to her. She (ibid.) recalls how being raped changed her experience of childhood- she could not play sports that involved being chased without eliciting moments and behaviours of panic and hysteria on her part. She (ibid.) could not participate in relaxed play with her peers or stand being watched from behind. Her coping mechanism as a child was to climb trees, to isolate, to view and interact with people from a distance (ibid.). As a result, I argue that the connection between her mind and body and self will likely never be the same, after the trauma. She would always live in the aftermath of the

experience of being shattered as a sexual being, even before her sexuality took proper form for herself. The journey to rebuild the relationship between mind, body and self can be a life-long one. F likely had not yet undergone puberty, which is a process that involves radical change to one's body and includes a growing sense of oneself as a sexual being. This means that she would have had several traumatic realizations prior to her gaining a full sense of her own body and self. She may have realized that her feminine body was first and foremost a site of violence. To a large extent, her initiation into her own sexualised being entailed that her core self was erased – all of her that a man chose to inflict violence upon, in a way that ignored and erased her intentions, and wants and dreams regarding her own body and her instinctual need for sexual and bodily integrity were shattered by an old man. She would realise that patriarchal - especially sexual – violence exists and aims to remove her wishes and intentions for her body and replace it with the intentions and violence of men. This sort of realization could impact her premature relationship with her body and, thus, her self.

In the case of Rebecca Mosepele, the rape and assault she experienced while pregnant could also result in additional harms. In addition to being raped and assaulted, Rebecca was an expecting mother who consequently gave birth prematurely. Prior to the rape by Mokgethi, she was also a victim of domestic violence and had been emotionally and physically abused by her boyfriend. She entrusted her safety and future to the police, and to Mogethi in particular (who appeared sympathetic to her plight), only to then be manipulated and raped by the very person she had come to trust as a protector against her boyfriend's violence. As a result of this violation, and in addition to all the other harms that she suffered, she lost her baby soon after its premature birth. Her body and mind, and therefore her sense of self, endured an array of severe violations during a short period of time. Her sense of self as a woman and as a (expectant) mother would also have been impacted by these violations. It is unclear whether she would be able to recover emotionally and physically from the rape, which was both a violation of her body and likely the cause of her child's death. Several questions remain unanswered in this case. Would the rape and subsequent loss of a child impact her ability to mother her eldest child? Would her body and mind be able to bear being pregnant again? Would she be supported during her recovery, given that her partner is an abuser? Would her embodied self regain trust in itself again? Rebecca Mosepele would have very likely had to do the rebuilding of her self alone, without much support or assistance, and this would make the journey towards to her new (almost unrecognisable) self that much more challenging (Brison, 2003: 38).

The ability of a victim to feel ‘at home’ in her own body is severely compromised by sexual violence. Brison (2003: 44) writes of her own journey with motherhood before and after she was raped. She writes (ibid.) that, before she was raped, beaten, and strangled, she and her husband had been trying to conceive. In the aftermath of her assault, her relationship with her body fundamentally changed; it was now marked by increased vulnerability and the mind and body had become vessels for dealing with, and overcoming, trauma. This left very little of the self over for anything else. In the aftermath of sexual violence, victims are burdened with the aftershocks of trauma which are acutely felt in both the body and the mind. The struggle to regain control and familiarity over both can sometimes be a lifelong struggle that affects our foundation and the futures we envisioned for ourselves, as I discuss in greater detail below.

#### *4.2.1.2. The Self as a Narrative*

Brison (2003: 49) argues that sexual violence also shatters the self as a narrative construct. The idea of the self as a narrative refers to the ongoing story one tells about oneself. This includes the hopes, dreams, and plans one has. It is a positive expectation about one’s abilities, competencies, and future, built upon the story of one’s past, where one comes from and what one has experienced along the way. The narrative is about who we were, who we are now and who we envision ourselves to be. As discussed in section 3.3.3., I have shown how this narrative is disrupted, distorted and shifted after sexual violence. Brison (ibid.) highlights how sexual violence (and other forms of trauma) can create a dichotomy between who the individual was before the assault and who they are after the assault. Rape can radically alter one’s ability to maintain a narrative about oneself and “[trauma] can obliterate one’s former emotional repertoire, leaving only a kind of counterfactual propositional knowledge of emotions” (Brison, 2003: 50). This means that we are left with a shell, or numbed version, of who we used to be. Brison notes (ibid., 38) for this reason that survivors of trauma often talk about their former self in the third person – ‘she’ did this and that, instead of ‘I’ did it. This points to a profound disruption between past and present – the person can no longer identify successfully with her former self. She also highlights that the reconstruction of the (emotional) self as a narrative takes time and requires intersubjective or interpersonal support. One of the most important aspects for the reconstruction of the (emotional) self is the ability to speak on one’s experiences in a setting where the audience is willing to listen and understand what is being communicated to them. This speaks to the interpersonal connections between close family and friends but also speaks to the support that might be available from other survivors of sexual violence. The

survivor of severely disruptive trauma must be assisted by others to start to verbalise an almost completely new story about themselves, a story that can finally make sense of, and incorporate the traumatic experience somehow. Either way, the self as a narrative is distorted because of sexual violence. This means that the future the victim would have foreseen for themselves is severely disrupted as well.

An important aspect of the construction of the narrative of the self is how the narrative positions the self in the world. This positioning concerns whether a person feels safe, how they are valued by others, whether they are properly listened to and appreciated, whether their voice will matter, as they did not matter during the inflicted trauma. When someone is raped, her ability to see herself in relation to others, and her basic sense of safety in the world are violated. She becomes displaced from a previously familiar world, a place of belonging, however imperfectly. Let us now turn to the case studies under consideration to flesh out the damage that sexual violence does to the narrative self of the survivors.

In an interview, K comments that, prior to the attack, she was extremely outgoing but, after the rape and assault by the three police officers, she does not easily go out. When asked about the sort of country K imagined for her daughter, she responds by saying, “I so much wanted a daughter, but when I decided to start a family, I prayed so much not to get a daughter. I don’t know how I would have raised a daughter” (2010). K’s narrative, the story about her dreams and aspirations and the future that she envisioned for herself, was disrupted and distorted by the violence she experienced. Her ability to situate herself in the world and her feelings of safety were all fragmented. Given that she could not protect herself against the most horrific violation, why would she be able to protect a daughter in what has now revealed itself to her as a patriarchal world of unimaginable cruelty.

In the cases of K (21 years old) and Rebecca Mosepele (27 years old), there were before and after versions of themselves. However, in the case of F, her entire childhood, teenagehood and adulthood is marked by this violence because she was so young when she was raped. Because F was a child when she was raped, she was robbed of the opportunity to formulate a coherent narrative about herself. She probably only had a scant “former emotional repertoire”, to use Brison’s (2003: 50) terminology, and so she had limited resources for rebuilding a self that could transcend her experience of violation. Moreover, it is safe to assume that her ability to situate herself in this world after her assault was greatly damaged and different from the

abilities of her peers, who did not have to struggle with the aftermath of such violence. For her, her former self must have felt particularly distant because the basic implicit trusts, including self-trust, were intact in that former self but not in her present self. This is because her implicit trust was cruelly used against her to violate her sexual and bodily integrity. She had made a decision to trust someone who projected trustworthiness when she was stranded but that trust (in herself and in another) was violated and her decision to trust resulted in her being raped and having her life threatened. One could argue that F would have to work to construct herself *in spite* of the violence that Van Wyk subjected her to. This is almost too much to ask of a child. It seems almost cruel to ask a child to find herself and situate her narrative, in spite of her harrowing experience of rape and its aftermath, when we recognise how hard it is for adult survivors.

#### *4.2.1.3. The Autonomous and Relational Self*

The self is where we place praise and blame for our own actions and evaluations (Brison, 2003: 59). Our ability to trust others appropriately becomes reflective of the trust we have in ourselves and as a result helps us to cultivate an autonomous self. This autonomous self is congratulated and praised when decisions and intentions culminate into a positive result. Conversely, it is blamed and chastised when its decisions and intentions culminate into unfavourable or negative results. The autonomous self grows to be self-defining when it is cultivated and nurtured. It is the locus of the mature and independent self. It is what allows the desires, actions, and intentions of an individual to be formulated relatively freely and without excessive reliance on others. In other words, the autonomous self would not easily be swayed by the needs and desires of others and would stand firm against exploitation or manipulation; an autonomous self protects and pursues their own best interests. The autonomous self allows the individual to situate themselves in the complex social world. The autonomous self enables, and gives rise to, the formulation and physical or verbal manifestation of the individual's needs, desires, goals, intentions, and actions, in relation to others. Therefore, the autonomous self is not self-enclosed; it stands in healthy, balanced relationships of mutuality and interdependence with others. It is both trusting in a generalised way unless there are good reasons to mistrust, and trustworthy itself. It determines how one sees and presents oneself in relation to other people; for instance, it determines whether one feels safe in intimate and crowded social spaces and whether one has a trusting relationship with themselves and with others.

The locus of our ability to trust ourselves lies in this relationship we have with our autonomous self. If we have built and cultivated our autonomous self, then we are more likely to trust ourselves in both simple and complex situations. Jones (2012: 241) uses the example of a compulsive checker to illustrate what happens when one's ability to trust one's self is so compromised that they are riddled with debilitating doubt and paranoia:

A neurotic checker and re-checker has lost the capacity to filter potential reasons for revisiting a judgment—a bare possibility has come to seem a reason to seek further reassurance, but such reassurance is at best temporary, since that bare possibility will always remain.

Govier (1998:103) refers to a similar example of a cult member:

If a person is trained to defer to authority and not to think for himself, he is less likely to be capable of doing so in later life. When one authority is displaced, he may seek out another, as is the case with many adherents of cults.

I argue that K, F and Rebecca Mosepele suffered similar struggles to the compulsive checker and the cult member, similarly related to severely compromised relation with the autonomous self. Although the harmful consequences for the self could vary in degree, the self that remains after the sexual violence is still vastly different and detached from the self that existed before the assault.

In the cases of K, F and Rebecca Mosepele, their assaults were preceded by trusting judgements. These sorts of judgements are, first and foremost, a function of self-trust because they require that a person trust themselves to make good trust judgements under difficult (risky) circumstances. In these cases, it was the victims' trust in themselves that informed the interpersonal trusting judgements they made about the perpetrator/s prior to the assault. Our ability to trust ourselves is situated firmly within the autonomous (and relational) self. As a result, when the autonomous self is shattered by sexual violence, so too is the ability to trust oneself. Systemic vulnerability, shame, victim-blaming and self-doubt all play a key role in deepening the victim's distrust of their self and their decision-making capabilities, thus making it difficult for them to rebuild the self. The shattered self attempts to live through the trauma of sexual violence and scrambles to regain her autonomy. She attempts to reinitiate autonomy

through control of her mind, body, and her environment. Her ability to do this is greatly hindered by the impairments of self-trust, which leads her to either mistrust (in a focused way) or, more likely, distrust (in a general, diffuse way) her own judgements about her own safety in the world. I argue that, despite the rape and assault inflicted onto these women being solely due to the actions of the perpetrators, victims tend to assign themselves blame. This may be a result of the internalization of the blame that (patriarchal and misogynistic) society often attributes to victims' actions. This can radically undermine the self and persist long after the physical wounds of the assault have healed. The normalization of rape culture and victim-blaming in a misogynistic and violently patriarchal society can result in disturbing internalizations of shame, regret, and self-doubt by victims. I explore this further below.

As previously mentioned, the harms of rape are even more deeply felt when a prior trusting relationship gives rise to the circumstances wherein the rape occurred. This is because trusting judgements are so deeply personal. In cases where trust is coerced, the trust cannot be considered proper trust as true trust is always given willingly. It is their initial decision to trust, that final leap of faith after one has made all the necessary calculations based on the available facts, that causes some victims to feel complicit. Furthermore, and because the cruelty of sexual violence seems senseless, some victims attempt to regain a sense of being in control of their own destiny through introspection that takes the form of blame and doubt. Recall Brison's (2003: 10) recollection of the ways her family and friends tried to make sense of the senseless violence of her rape. Brison (2003: 7) further explains that everyone, not just the direct victim, tries to make sense of the attack, often by pointing out that the victim had done something stupid, naïve, or too risky. This is because all of them would prefer to live in a world where one is punished, through rape, for doing something wrong instead of in a world where sexual violence is completely random and senseless and can therefore happen to anyone, at any time. They insisted on asking her what she was wearing, what she did to provoke the attack, and what the motivation behind the attack was (*ibid.*). These questions place responsibility and blame on the victims of rape.

A patriarchal society that promotes victim-blaming and shaming of victims would result in harsher external and internal self-blame. Rape culture has normalized and naturalized the sexually predatory behaviour of men to such an extent that, when hideous acts of sexual violence happen, blame is typically placed on the character and actions of victims, instead of on the violent and inhumane actions of perpetrators. In this way, it is not difficult to see how



this voice of deep-rooted shame, blame and hatred could be turned inward. Brothers (1995: 35), in her study conducted with victims of incest and rape, noted that this shame and blame sabotaged the selves of victims who had been preyed upon by family members. In this setting, it is even more alarming that questions of “what could I have done” are still asked because familial relationships are often inescapable and filled with complex financial and age-related power imbalances. Also, cultivating a sense of complicity in a rape victim to keep them quiet as a result of shame and/or fear is often a strategy deliberately used by perpetrators. Shame is generally present in sexual violence because of its sexual nature and it may be especially powerful in cases where sexual violence follows a trusting judgement. This is because there was an element of consent or freedom involved in the lead up to the victim finding herself in such a powerless situation. This includes question such as “how can I ever trust my own assessments of situations again, if I could have brought this horror upon myself”.

Recall my discussion in section 3.3.3., of Bergoffen’s (2018) work on shame and rape. She writes that, regardless of how the definitions and moral judgements around rape and sexual violence have changed over time, one thing has remained constant and that is how rape victims are shamed for the violence committed against them. Where Brison (2003: 59) writes that the self is relational and autonomous, Bergoffen (2018: 4) similarly writes that the self is the object of another’s gaze. Shame reflects our dependence on others which is a result of the fact that we value the assessment others have of us. Shame is set in a particular value system: the gaze that places shame on us has to hold weight or power in order to influence our view of ourselves. In a patriarchal society, sexism and the sexist gaze hold considerable power to shame women, which is a way not only of making women look less than fully human to others, but importantly, to themselves (ibid., 3). Bergoffen (2018: 5) writes:

By enforcing and legitimating misogynous values, the invisible violence of debilitating shame sets women up to believe that they “deserve what they get” when the silent violence of their lives becomes the overt violence of cat calls, a hostile work place, sexual harassment, or rape (Bartky 1990, p. 23).

In her book, Gqola (2015) analyses the concept of shame and investigates its intersections with oppression. She writes (Gqola, 2015: 38) that “[shame] is a function of oppression, it has everything to do with who is valued and who is invisibilised in any society”. She goes on to say that “shame is a product of dehumanisation, and all systems of violent oppressive power

produce shame in those they brutalise” (ibid.). Gqola (ibid.) adds that this might seem counterintuitive but there are endless examples around us to prove her case. For example, in a capitalist society that functions on the elite’s hoarding of wealth, it is the poor that carry the shame of poverty.

Similarly, the shame of sexual violence most commonly (in patriarchal societies) sits with the victim instead of the perpetrator. In the cases of K, F and Rebecca Mosepele, I argue that while there is limited evidence on the specific experiences of women in the case studies in line with Gqola (2015) and Bergoffen’s (2018) theories of shame and rape, these women very likely felt shame in the aftermath of their assaults, and this further impacted their sense of self. K, F and Mosepele were probably particularly affected by shame because their cases involve trusting judgements. Furthermore, in misogynistic and patriarchal cultures, it is likely that blame and shame will be assigned to victims of sexual violence. In a patriarchal society the honour and virtue of these women are seen as ‘tainted’ by the shame of sexual violence. Being a victim of sexual violence is seen as shameful in a way that being a victim of other forms of crime, for example, burglary or fraud, is not. Very often, it is women like K, F and Rebecca Mosepele who are shamed, not only of the violence committed against them but also because they are blamed and shamed for having inappropriately trusted the perpetrators in the first place. If this blame and shame is internalized by victims, it can radically compromise self-trust. As a result, it could have the power to influence the victims’ evaluations of others (and their trustworthiness). If a victims’ competence and motivations are questioned and she is blamed for the rape committed against her, she is less likely to trust her evaluations of other people again. In other words, external and internal shame and blame can taint a victim’s ability to trust in their own judgement again. For example, F was a 13-year-old child who formulated a trusting judgement of a seemingly sincere adult as best she could. However, she may feel shame about the fact that she was raped and blame herself for the assault because she, supposedly, trusted ‘unwisely’ or ‘stupidly’. This sort of victim-blaming is common in misogynistic societies and is often internalised by victims. Of course, it is clear that the fault should lie with Van Wyk: the type of trust that F employed (naïve or reflective) did not contribute to Van Wyk’s intention and actions. In other words, her trusting him did not force him to rape her. Van Wyk’s intentions formed independently of F and it is likely that he was awaiting an opportunity to act on them. If F had not trusted Van Wyk, it is likely that he would have raped someone else. Furthermore, it is possible that there was nothing about the situation that could have alerted F (even if she had been an adult) that Van Wyk was an aspiring rapist. In other

words: not all wrong trust decisions are unwise. The victim may not have made an error of judgment even if their voluntary actions contributed to these terrible events.

F was a child who would have had to communicate what happened to her to other people. She may try to explain the assault to friends or peers and this account would probably include the fact that she initially trusted Van Wyk. Her peers would likely not be able to relate to her shattered sense of self or suspicion of her own judgements going forward. This shattered sense of self may be so profound that she may question her ability to trust her evaluation of herself and her judgement of others again. If she experiences such deep-rooted self-doubt, she might even doubt the veracity of her own experience of the event and might find it difficult to tell a coherent narrative about it. This self-doubt is not because of any objective fault on her part but it may still greatly impact her. Her ability to position herself as an autonomous being in relation to others (who have not been raped) and the world may be compromised and coloured by shame and self-doubt.

To summarize, the violation of trust through sexual violence can cause a great deal of harm to the relational, autonomous self. Furthermore, there are additional harms associated with sexual violence which follows the formation of a trusting relationship. The violation of interpersonal trust by the perpetrator can damage a victim's self-trust. If this occurs, it deeply impacts how the victim sees herself after the assault and how she sees herself fitting into the world around her. The typical consequences of having one's trust so deeply betrayed is to feel shame and deep self-doubt. The rape and assault of Susan Brison (who was attacked from behind by a stranger in broad day light) is very different to the rapes and assaults of K, F and Rebecca Mosepele (who had conversations with their perpetrators, interacted with them in meaningful ways, and were persuaded to trust that the perpetrators would, at the very least, not harm them). They agreed to be assisted by these men. I have argued that, where a trusting judgement precedes sexual violence (as is the case in these case studies), the damages to self-trust are more acutely felt and may manifest as extreme self-doubt and shame.

### ***Conclusion***

The self, as defined in section 3.3 and as applied in this chapter, is the essence of an individual's personhood and determines how they engage with the world around them. Sexual violence, particularly the sexual violence committed in these three cases, does more than just violate interpersonal trust; it can devastate a victim's sense of authority and security in their own

judgements. The trust that they had in themselves previously can be so damaged that their self becomes shattered, disorientated, and fragmented. The recovery of the self is largely dependent on the support and environment available to the victim after the assault. Sexual violence often causes victims to be left with a vulnerable, insecure, unsafe, and porous self that is disconnected from the mind and body as well as others. A shattered self, unmoored from its indispensable ties of basic trust, remains.

### ***4.3. Institutional Trust***

#### ***Introduction***

As illustrated throughout this thesis, when a woman forms a trust judgement about a police officer, she utilizes a number of trust networks; particularly, self-trust, interpersonal trust, but also, importantly, institutional trust. When a police officer violates this trusting relationship, the entire network of trust is damaged and discredits the institution of policing as a whole. The effects can be felt throughout the network: from the intra-personal and interpersonal levels right through to the systemic level. As previously discussed, when a police officer commits rape after deliberately creating a trust relationship with a civilian, the effects of this violation jeopardize the ability of the victim to form trusting judgements. However, beyond this, there is a violation of trust that radically impacts the legitimacy and authority that the police hold within the institutional realm.

In section 3.4., I broadly considered the theory of institutional trust and investigated trust in the police as a state institution more specifically. It is necessary to, once more, highlight that institutional trust plays a central role in democratic functionality. This burden is even greater for police (and security) institutions within new (fragile) democracies where there is no long history of generalized trust to draw on. Once again, recall the discussion in section 3.1.4., where I laid out the temporal dimension of trust. Like other forms of trust, institutional trust also contains a specifically temporal dimension. New democracies lack a long history or tradition of trustworthy institutions to fall back on, or to refer to – as I have explained when I discussed the apartheid police force in section 1.3.1. In new democracies, newly democratic state institutions still have to build up a history of trustworthiness – it is in this context that the behaviour of individual officers can be magnified and thus harmful actions with damaging consequences extend far beyond the individuals involved. Because the human rights, freedoms and safety of citizens were routinely violated during the internal conflicts that preceded third

wave democratization, the functionality and legitimacy of these institutions are closely linked to the functionality and legitimacy of the newly formed democratic state itself.

When police officers commit (sexually) violent acts that are facilitated by trusting relationships (which, in turn, are based on their authority as actors of the state and as custodians of constitutional rights), they severely undermine the victims' rights of freedom, dignity, and safety, but at the same time, they also impact democracy more broadly. In this next section, I apply the analysis of institutional trust and its relation to democracy, which was laid out in section 3.4.4., to the three case studies. This analysis consists of two parts. First, I will look at how institutional trust played a crucial role in the trust that was built prior to the assault of these women. Second, I look at the consequences of these violations of institutional trust for K, F and Rebecca Mosepele as the victims. Moreover, I show how these assaults can have far reaching implications for the accountability and legitimacy of the SAPS and the effectiveness of the democratic dispensation itself.

#### ***4.3.1. Building Institutional Trust***

As already discussed in section 1.3.1., the South African police institution attempted to swiftly move from a 'force' to a 'service' in the new democratic dispensation. Instead of an oppressive force inflicting violence and suppressing dissent (against the apartheid government), the new police service would strive to equally protect and uphold the human rights of all South African citizens, in line with the Bill of Rights in the South African Constitution (Republic of South Africa, 1996). Trust (specifically institutional trust in the SAPS) plays a key role in the realisation of this goal. This is because no police force can perform its basic functions, such as interviewing witnesses, conducting investigations or making arrests, without trust from the communities they are mandated to serve. The safety and protection of citizens remains one of the most important commitments made by democratic state to its citizens – as we have seen, this is the only reason citizens would consent to the state's monopoly on violence. The state's ability to protect civilians from harm and threats, and to ensure that citizens enjoy all their basic rights and freedoms, is vital to the democratic project.

Professionals occupying key social roles, such as doctors, teachers and police officers, have a longstanding reputation for performing crucial services that directly contribute to the wellbeing of society and fulfil citizens' most basic needs. Popular culture is filled with positive representations of these social roles and the type of personalities that are drawn to these

occupations. If someone introduces themselves as a teacher, we assume that they are caring, good with children and generally have a kind-hearted nature. These assumptions are based on the collective imagination of our society. Television programmes, movies and other forms of entertainment, all tell countless stories of the friendly, goofy policeman who is a family man and who cares deeply about his community and anyone who is vulnerable. The narratives in *Blue Bloods*, *Chicago PD*, *NYPD Blue*, *Law & Order* and various other acclaimed international television programmes reaffirm and co-create this picture in the collective imagination. These narratives form part of the normative identity and stereotypes associated with the profession, as discussed in the previous chapter (Warren, 2018: 88). Warren (ibid.) argues that, in order for institutional trust to be cultivated, trusters need to know the roles and offices that normatively define the profession.

It is not unusual for women in South Africa to be wary of trusting strange men, particularly when they are in a vulnerable or precarious position. However, they are likely to make an exception to this general rule if the men in question occupy a particular (professional) social role. Whereas women in South Africa might generally be cautious and suspicious of men, men who occupy an important social role are more likely to be deemed trustworthy, even where they are strangers. In the case of police officers, the role carries an expectation of reliability and safety with it precisely because police officers' jobs entail helping and assisting victims or anyone else that might be hurt or in danger. This sort of expectation is amplified by the stereotypes about the types of personality these professions attract. The presence of police officers who are visibly carrying guns, for example, might be a source of comfort to citizens who feel vulnerable in their neighbourhoods – the guns, they know, are not meant to cause civilians harm, but to protect against harm. For most ordinary citizens, the sight of police officers in uniform creates the impression that the area may be safely inhabited, without fear of criminals. The repeated calls for more visible policing in neglected neighbourhoods illustrate the prevalence of these sorts of ideas in South Africa. Above and beyond these factors, police officers are also state actors and thus are deemed especially dependable because they are mandated by the state to act as protectors and enforcers of the law and the constitutional values of this country. In this sense, their physical persons are often the first, and even the only, direct encounter that many people have with the state as such.

It is police officers who are mandated to protect and serve the interests of those who have been harmed or are in need of protection. Thus, it is reasonable, and sometimes automatic, for a

woman or child to trust a police officer when they are stranded, in need or in danger. It is reasonable and automatic in the same way that seeking out medical attention from a doctor when one is sick or injured is. There is no one else better equipped, or more legally mandated, to protect the interests of those who are vulnerable to violence and harm than the police service. In the judgement of *F v Minister of Safety and Security*, Justice Mogoeng wrote:

It follows without more that the state, through its foremost agency against crime, the police service, bears the primary responsibility to protect women and children against this prevalent plague of violent crimes (at 57).

This is an affirmation of Justice Ackermann and Goldstone's judgement in *Carmichele v Minister of Safety and Security and Another*:

The police is one of the primary agencies of the state responsible for the protection of the public in general and women and children in particular against the invasion of their fundamental rights by perpetrators of violent crime (at 62).

This last quote by Justices Ackermann and Goldstone clearly resonates with Warren's (2018) theory, as presented in section 3.4.2. In particular, a condition of institutional trust is that the truster must know that there are norms and standards that regulate and mandate the conduct of the institution and its agents. These norms and standards should feed back into the culture and professional identities of that institution's employees. Police are mandated to protect the interests and rights of those who have their freedoms, safety and dignity threatened. This mandate is clearly set out and stipulated in codes of conduct and legal frameworks that dictate the actions and directives of police (Warren, 2018: 88). These mandates (set out by codes of conduct and legislative frameworks), and the assumption that individual officers will act in accordance with them, enabled K and F to trust the officers to protect them, even though they were strangers. In Rebecca Mosepele's case, she had already seen Constable Mokgethi acting in accordance with the rules and responsibilities of his role and trusted him to continue to do so. In all three cases, the victim believed that she could safely place her trust in the perpetrator/s because they were officers of the law and representatives of the SAPS and the state itself.

#### **4.3.2. Institutional Trust after Violations and Violence**



As discussed in section 3.4.1., Warren (2018: 88) explains that, even where the trustee is a stranger, trust can be extended to them if they occupy a significant role within a trusted institution. As we have seen, institutional trust makes it possible for us to trust anonymously. We no longer see certain ‘strangers’ as merely strange, or potentially dangerous, random individuals. Because we consider the institution to be trustworthy, we extend our trust to ‘strangers’ who act on behalf of the institution. We trust these strangers precisely because we know that they belong to a known and trusted institution and represent its values. When this trust is violated by an individual officer, or other representative of the institution, it violates one’s trust in the institution as a whole. It can shift one’s perception and ability to form trusting judgements with regards to that institution again. As discussed in section 3.4.6., there is a deeply interconnected relationship between legitimacy, authority, institutional trust, and power. In this section, I explore that interconnected relationship. I argue that the harms experienced as a result of institutional trust violations are compounded when there are criminally insufficient levels of oversight and accountability in the aftermath of such violations. Below, I look at how authority legitimizes state power and, conversely, how appallingly poor oversight delegitimizes it. I unpack what the possible effects of these harms would mean for K, F and Rebecca Mosepele. In particular, I investigate the impact of these harms on their trust in the SAPS, their trust in the oversight bodies and, by extension, their trust in the democratic state. I explore these arguments and harms below.

As laid out in section 2.2., vicarious liability is a common law principle that sets out the relationship between an employee’s unlawful actions and his or her employer. Under certain circumstances, vicarious liability allows for claims of damages to be made against that employer. As such, the principle of vicarious liability is extremely important for this thesis because it provides a *prima facie* argument for the link between the actions of a police officer and the accountability of the police minister and the state itself. However, in this section I argue that, above and beyond the application of this legal principle as a means to claim damages, it also means that violations of institutional trust by police officers have dire and devastating consequences for the legitimacy of the SAPS as an institution and for the South African democratic state. My focus thus extends far beyond individual legal recourse; I highlight the reach of the damage and its impact on larger, indispensable social networks of trust. This argument traces the harms that come about as a result of violations to institutional trust. To explore this argument further, I apply the concepts of institutional trust, authority and

accountability to the case studies and show how they influence and determine legitimacy in the cases of K, F and Rebecca Mosepele.

One would think that, in a society where women are fearful and anxious about trusting men because of the high prevalence of sexual violence, the last people who warrant suspicion would be the male police officers (as agents of the democratic state) who are mandated to serve and protect the freedoms and safety of women and children. Despite everything we looked at so far – the extent of their situational vulnerability, the meaningful communication engaged in by the officers to win their interpersonal trust and so on - K, F and Rebecca Mosepele trusted these male strangers primarily because they were police officers. In the case of *F v Minister of Safety and Security*, Justice Mogoeng wrote

... a vulnerable young girl was led to believe that a policeman, whether on duty or off duty, assumed the responsibility to protect her or secure her safety. This is sufficient to cause her to let her guard down and place herself in his ‘capable hands’ (at 67).

This quote highlights that given the rate of sexual violence in South Africa, even a child, in this case F, would have been wary of accepting assistance from a man even though she was stranded. However, she overcame this fear and hesitation because she was under the firm impression that the man in question was a police officer. K and F formed a trusting judgement about the intentions and competence of the perpetrators because they were clothed in the authority of the state, and officially mandated to use their powers and equipment to protect vulnerable citizens.

In *K v Minister of Safety and Security*, Justice O’Regan argued that not only did the police officers have a constitutional and an employment directive to protect, but crucially, that their employment as police officers provided the opportunity to commit these crimes and, as a result, the Minister of Safety and Security should be held vicariously liable for the actions of his employees (*K v Minister of Safety and Security*, 39). I concur with this argument; the fact that the perpetrators were police officers created the opportunity for them to commit sexual violence. This is the case because the details of the case studies make it clear that the women deliberated with themselves over whether to accept the help offered by these male strangers. In each case, what convinced them to accept the assistance offered was the assurance they received, through a number of clues, that the men were, in fact, police officers. In the case of

K and F (excluding Rebecca Mosepele because she knew Mokgethi), these clues included the uniform of Nathaniel Rammutle as well as the marked police vehicle (for K) and the police radio and, later, police dockets for F. It is therefore plausible to argue that the victims would not have trusted the perpetrators, who were male strangers, and would not have entered their vehicles had they not believed them to be police officers.

I have said that the utilization of the principle of vicarious liability to determine delictual liability is not the only application of this principle. It can also be used to show the effects that follow violations of institutional trust of this nature. In other words, the harms that follow the rapes committed by these officers were not completely resolved when the Minister of Police (previously known as the Minister of Safety and Security) was ordered to pay monetary compensation to the victims of these rapes. Rapes and assaults that occur after women have put their trust in SAPS officers have far reaching consequences above and beyond individual claims for monetary compensation. Throughout this thesis, I have argued that the effects are interconnected, deeply personal, but also systemic and far reaching. I have unpacked harms that result from the cultivation and subsequent violation of interpersonal trust and self-trust; below, I look at three harms that are specific to institutional trust. I argue that when police officers commit rape after women and children have decided to trust them, and while occupying their role as agents of the state, there are severe harms to the legitimacy of the SAPS and the state which follow suit.

So far in this section, I have paid attention to how civilians trust police officers for mainly two reasons, namely, (i) because they belong to a caring and protective profession with strong normative ideals about refraining from harm and assisting the vulnerable and (ii) because civilians trust the institution, the SAPS, to which individual, anonymous officers belong, and which, ideally, holds them accountable for their behaviour. A third reason civilians tend to trust police officers has to do with authority. In this regard, police officers differ from other non-state professions, such as private-practice doctors. The SAPS is an integral part of the state apparatus and therefore trust or mistrust in them as an institution goes to the heart of democratic legitimacy. Below, I unpack the role of authority and accountability in the conservation or devastation of legitimacy.

#### *4.3.2.1. Authority*

Like trust, authority is conferred. It is based on a system which includes micro and macro procedures and processes that attempt to make this conferment legitimate. Those who lay claim to authority appeal to some idea of ruling by right, which means that they must have the ability to exercise authority to some extent if they are to retain authority (Dagger, 2018: 80). That means that an individual or institution does not have authority just because they claim it. Instead, it is the consent to, or conferment of, authority by those over whom the institution holds authority that distinguishes authority from brute force (ibid.). The SAPS, and the state itself, have authority because the people of this country have conferred both authority and the mandate to protect and rule onto these bodies. If this were not the case, the state would be an authoritarian system of government with a police force that was devoid of legitimacy (Estlund, 2008: 41).

There are two ways in which South African civilians confer authority onto the police. First, on a macro level, there is a specific political process that enables this transference of authority to state officials, such as police officers. South Africans vote for political parties during elections. These political parties elect who their presidential candidates will be at a conference before national elections. Upon winning the majority of votes in the national elections, the nominated presidential candidate acquires the roles and responsibilities of president. According to Section 206 (1) of the Constitution (Republic of South Africa, 1996), the president, when choosing his or her cabinet, designates a cabinet member responsible for policing. According to Section 207 (1) of the Constitution (Republic of South Africa, 1996), “[the] president as head of the national executive must appoint a woman or man as the National Commissioner of the Police Service, to control and manage the police service”. The National Commissioner, along with the civilian secretariat for the police service, works under the cabinet member responsible for policing. This entire political process results in a transference of authority and legitimacy from the South African people to their representative and elected leaders and, finally, to the body and people that govern the SAPS.

Second, on a micro level, South Africans confirm the authority of police officials by obeying them. When there is a claim to legitimate authority, there is also a corresponding affirmation of authority which occurs when subjects obey the rules and directives of police officials (Dagger, 2018: 80). This obedience of subjects reaffirms the idea that police officials should be listened to and obeyed for the sake of the safety of the individual and the general public. As a result of these processes, subjects feel as if they have given legitimacy to police officials

through voting and other forms of democratic participation and by listening to particular police officials, on the ground and in our communities. The authority held by police officers over civilians is thus conferred and re-conferred each time a civilian defers to a police officer in any concrete situation. If an individual's home is broken into, they could enlist their local church or neighbourhood watch to catch the perpetrator and/or prevent them from doing it again or they could put their faith in the police by trusting and authorizing them to deal with this problem. By authorizing the police to deal with these sorts of matters, citizens affirm the authority of the police as a competent, capable, and reliable body.

The democratic state of South Africa and its Constitution equip police officers with certain tools of authority to carry out two mandates. First, it allows officers to carry out their duties of protecting the constitutional rights and freedoms of those who live in South Africa. Police officers are issued with uniforms and instruments (such as patrol cars, petrol, communication technology, and firearms) to assist them in serving the people and the interest of the state. Justice O'Regan wrote that "one of the purposes of wearing uniforms is to make police officers more identifiable to members of the public who find themselves in need of assistance" (*K v Minister of Safety and Security* at 51). It is precisely because of the clear visibility of these symbols of state authority that the victims entrusted their safety to these police officers. By placing themselves at the mercy of these male strangers, they really entrusted their physical vulnerability to the state for protection. When the women (and child) in the case studies trusted police officers, it was because they were representatives of the state. They formed institutional trusting judgements of these officers as officers of the SAPS and, consequently, the state. Second, these tools symbolize state authority and the legitimacy thereof to citizens and offenders alike. These tools convey sentiments of legitimate authority and protection to the vulnerable.

In the first two cases, the victims, K and F, were particularly vulnerable, because they were young women (and, in the case of F, a minor), stranded alone at night. In the last case study, the victim Rebecca Mosepele was particularly vulnerable because she was a pregnant, working class Black woman who lived with an abusive partner. In the moment when she accepted Mokgethi's assistance, she was also burdened with her shopping. All the women in the above cases were generally vulnerable because they were women attempting to travel safely in a country with extreme levels of sexual assault and gender-based violence. All the women in the case studies looked out for the tools of authority that symbolized that these men were police

officers and therefore mandated by the state, and the Constitution, to protect and serve the interests of justice and, consequently, to uphold their individual interests in safety and bodily integrity in their time of need.

In the first case, K noticed the SAPS marked vehicle and the police uniform. In the second case, F inquired whether the perpetrator was an officer after seeing the police radio. In the third case, Rebecca Mosepele knew that Mokgethi was a working police officer and had encountered him at a police precinct prior to the meeting that ultimately culminated in her assault. Furthermore, when Mokgethi offered Mosepele a ride, he was dressed in full uniform. While it is obvious that the state would not have sanctioned the rapes and sexual assaults of these women, there is an inextricable connection between the individual officers who did commit these assaults and the state. These officers are employees of the state and used state issued instruments to gain the trust of the victims and, subsequently, to rape them. The above-mentioned cases demonstrate this. In all of the cases, the women looked for indicators that the perpetrators were, in fact, police officers and, therefore, agents of the state who were mandated to protect and serve. This calculation about the institutional affiliation and institutional trustworthiness of the officers took place alongside, and at the same time as, the other two trust calculations we have discussed: the women also deliberated with themselves over whether the male strangers had acted in a manner which suggested trustworthiness and good intentions towards them (interpersonal trust) and whether they could trust their own judgement (self-trust).

In the case of *K v The Minister of Safety*, K was approached by an officer who was in full uniform and who, along with two other officers, was driving a marked police vehicle. The state tools that were used were instrumental in baiting the victim and creating the opportunity for the perpetrators to rape the victim. I argue that it was precisely these markers of state authority that created institutional trusting relationships that were then used by these officers to assault the victim. In addition to the authority that was used to manipulate these women into forming trusting judgements, instruments of authority (SAPS vehicles, uniforms and duty-issued firearms) were instrumental in the rapes and assaults that were inflicted on these women. In the case of K, the police officers used their police vehicle and SAPS jacket to assist in the rape and the assault of K. In the case of F, the unmarked police car was used by Van Wyk to assist in the rape and assault of F. In the case of Rebecca Mosepele, the uniform and state issued firearm were used to assist in the rape of Rebecca.

The use of a state issued firearm in Rebecca's case is especially concerning. Firearms are not only signs of legitimate state authority and the state's monopoly on violence, they also convey that police officials are mandated to use force to protect the general public when such force is necessary. Instead of acting in accordance with this mandate, Mokgethi used his firearm to threaten the life of Rebecca. Recall that, during the assault, Mokgethi placed his firearm on top of the pillow. When his victim resisted, he pointed the firearm at her and told her she should "choose whether she sleeps with him or he shoots her" (*Mosepele v Mokgethi*, 3). The perpetrator not only abused his authority as a police officer, but he also used his state issued firearm to rape a pregnant woman. This leads one to question the extent to which the police should have access to these tools of authority.

These tools relay to civilians that police officers are authorized by the state, which is in turn authorized by the body of citizens, through a specific political process. Additionally, these tools invoke respect and obedience in civilians who, in turn, legitimize police and confer authority upon them as protectors of civilian rights and freedoms when they obey them. In these cases, the instruments, tools, and arms that should have been used to protect civilians, and that exist to protect civilians, have been used against vulnerable women to violate and rape them. The use of these tools of authority as weapons to lure, to reassure, and ultimately to assault women breaks down the legitimacy and the authority of the state. I explore this theme further below.

#### *4.3.2.2.Accountability*

As laid out above, Warren (2018: 88) writes that one of the conditions for institutional trust is the presence of sanctions that are built into the institution itself. For institutional trust to exist, individuals need to be assured that oversight and accountability mechanisms and bodies exist and work effectively. These sanctions can be used by trusters if trust violations occur and if any individual representative of the institution were to do harm in their institutional capacity. Such oversight mechanisms promote institutional trust when they work effectively to ensure accountability, without necessarily being solely dependent on the involvement of an aggrieved party. Meaning that there are independent oversight mechanisms that do not only involve an individual laying a complaint but rather that the institution itself is proactive in monitoring violations of trust and has its own mechanisms in place to root out untrustworthiness. I agree with Warren's (2018) account of how accountability, trust and legitimacy are tied to one another. I further argue that, in addition to the knowledge that these bodies and measures exist



and are effective, the way that institutions respond to actual violations plays an important role in determining how the institution is viewed. If an institutional trust violation occurs and there is a failure to hold culpable parties accountable or remedy the culture or systemic issues that enabled the violation, then members of the public are less likely to trust the institution in future. As a result, a lack of effective oversight erodes institutional trust and the legitimacy of these bodies as well as citizens' willingness to confer authority upon them. Where violations of institutional trust have occurred, accountability serves as a key instrument in the rebuilding of trust. Where women have been raped by SAPS officers, swift and decisive responses that hold perpetrators accountable can go a long way to building a culture of accountability and relaying the message that these officers do not represent the collective or SAPS as a whole. However, when there is lack of urgency or no attempt to hold perpetrators accountable, it can cause further harms to the victims of rape and, simultaneously, threaten institutional trust. A lack of accountability can cause an attitude of distrust in the police service as a whole and the state as the employers of these officers. If distrust develops, all police officers, one of the agencies most explicitly entrusted with women and children's safety, may be deemed untrustworthy in an indiscriminate way and incapable of being entrusted with women's safety and protection. Below, I explore the accountability mechanisms and processes that followed the violation of institutional trust in the case studies. I will explore how these responses impacted access to justice and a rebuilding of institutional trust for the women in these case studies.

In section 3.4.6., I argued that violations of institutional trust have direct effects on the authority conferred by the people onto the police service and the state. As such, these violations threaten the legitimacy of the police service as executive functions of the state and call into question the legitimacy of the state itself, insofar as it fails to provide protection to its female citizenry and ensure that the bodies mandated to provide protection are not also direct perpetrators. I am in agreement with Warren's (2018: 88) argument that, where legitimate authority is threatened, there needs to be a variety of oversight mechanisms to sustain institutional trust. Individuals need to know that institutional trust violations are taken seriously and followed by swift remedies (for the aggrieved) and consequences (for the perpetrators). This allows accountability to rebuild institutional trust and legitimacy. I argue that, in the case studies presented in this thesis and other cases where women are raped by police officers, obstacles to accountability unfortunately remained, that accumulated together with the initial crimes, to undermine institutional reputation and institutional trustworthiness. Where institutional trust continues to be violated (through the criminal or otherwise immoral actions of institutional

actors and a subsequent lack of accountability and failure to provide justice), it severely impacts the legitimacy of the SAPS and, by extension, the legitimacy of the democratic state of South Africa. I explore this argument below. I work through the different stages and processes that victims of rape (by police officers) would have to work through in order to get justice for the crimes and acts of violence that were committed against them.<sup>36</sup>

First, a victim of rape by a police officer would need to open a criminal case against the officer. This would have to be done at a police station. In other words, a victim who has recently entrusted her safety to a police officer only to have her trust grossly violated is expected to trust more police officers if she wants to report a case. She is expected to trust that the institution will treat her in a respectful and dignified manner even after she has been assaulted by one of its agents. Her case would then ideally be referred to the Independent Police Investigative Directorate (IPID), where institutional constraints regarding resources and independence threaten the victim's ability to access justice (Mlamla, 2020). I provide a deeper analysis of these constraints below. Lastly, if the complainant is lucky, the case makes its way to the courts. This happens only in a minority of cases, as discussed in section 1.3.2. Below, I unpack the systemic failures and shortfalls in the judiciary system as the last line of accountability against police as perpetrators of sexual violence.

Police officers are generally the first face of the justice system for victims and survivors of violent crime. Victims of sexual violence must file protection orders with, or report crimes to, police officers. This means that the way that police officers engage with victims and survivors can have a profound effect on the psychological and emotional wellbeing of those reporting crimes committed against them (Du Plessis, Kagee & Maw, 2009: 275). The effect is heightened because victims are usually highly vulnerable in the aftermath of trauma, which has now been discussed in detail. One can argue that the SAPS, as an institution, has historically valued deeply (hyper) masculine traits, which emphasise aggression and physical strength as desirable traits. Recall in section 1.3.1., I discussed Smythe's (2015: 49) account of historical ideologies of hyper-masculinity, white supremacy and religious conservatism that were firmly embedded in the apartheid policing service. These traits are valued and juxtaposed against stereotypical 'feminine' attributes such as being emotional, less prone to violent behaviour and

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<sup>36</sup> These sorts of processes are also difficult for victims who were not raped or assaulted by police officers. For example, recall that, in the Carmichele case, Gosling struggled in vain to get assistance from the SAPS before Carmichele was attacked, despite being threatened by a person with prior convictions for violent crime.

physically soft. This means that victims of sexual violence (committed by police officers) are required to report the crime to other members of the same fraternity (which values hyper-masculinity) that may not be well-positioned to provide support or hear the victims' account in an unbiased manner (as has been argued by Smythe (2015: 195). The similarities between the perpetrator and other members of the SAPS, which result from their shared membership in the police fraternity, may instil fear in victims and survivors of sexual assault when the time comes to report these crimes. Recall that, earlier in this chapter (section 4.1.1.), I pointed out that resources and location can radically limit the options for reporting a crime. This means that victims, especially in rural and poorer communities, might either have to report at the same station where the perpetrator is stationed or at a nearby station. One might accidentally encounter him again even as one tries to open the case and has to recount the details of the attack to the officer on duty – as was the case for Rebecca Mosepele who had to report her rape at the police station where her rapist worked (*Mosepele v Mokgethi*, 4). This places victims in an impossibly vulnerable position vis-à-vis the perpetrator who might make good on his threats to kill them if they report the assault. Perpetrators are also likely to threaten victims if they get the chance. The potential for violence that the police carry in the name of defending people was once used against the victim and it may be used against them again.

Secondly, this entire process could trigger traumatic responses from the first violation and could, moreover, constitute secondary victimisation if police officials try to deter victims from filing reports in an attempt to protect their colleagues. In the case of K, the fact that there were three perpetrators, all of whom raped her instead of holding each other accountable and preventing the assault, is a terrifying reality to grapple with. These officers, who were brought together by their professional commitments to protect and serve the interests and freedoms of civilians (including women and children), collaborated with each other to rape and assault K. Recall that, earlier in this chapter (section 4.2.1.), I explored how sexual violence impacts the embodied self. I argued that rape can amount to a 'social death' and that this was exacerbated in K's case because Rammutele, Gabaatholwe and Nqandela came together in a 'social' manner to collectively assault and violate her. Additionally, in the case of K, she quite literally encountered a 'fraternity' of policemen who enabled each other's criminal behaviour and, most likely, will go on to protect each other. In Rebecca Mosepele's case, Mokgethi's colleagues tried to protect him from rape charges and, in doing so, further victimized Rebecca. F's harrowing experience of running away from Van Wyk only to be picked up by him again can serve as a kind of nightmarish metaphor for the difficulty of reporting which I have described

above: no matter where you turn for help, you keep on facing essentially the same face or figure. No recourse to justice indeed.

A culture of hyper-masculinity also includes victim-blaming, shaming and institutionalised patriarchy. This contaminates the respect and sensitivity that should be afforded to victims of sexual assault. It also has the ability to indoctrinate victims into believing that they are deserted with no recourse to justice. The sense of helplessness during the attack may be replicated when a sense of powerlessness is inculcated in victims by a hostile or indifferent police service which essentially does not want to know about atrocities committed by its own members. Victims of police sexual violence are therefore likely to experience a double injustice – first the actual sexual violation and then, second, the injustice of not having the first injustice acknowledged at an institutional level. This mirrors what often happens within families and society where there is a parallel demand to forget and get over the experience, without the reckoning that is important for restoring a person's dignity and self-trust. When these injustices are not acknowledged, it makes it harder to identify the gross rights violation committed by police officers, and those that are complicit in preventing justice from taking its course, for the individual victims and society as a whole.

This prolonged intimidating behaviour is made clear as discussed in the previous sections when Rebecca Mosepele was questioned by two policewomen who then invited Mokgethi to sit in on the interview. In addition, these policewomen assured Rebecca Mosepele that they would contact her when her case was to go to trial and they failed to do so (*Mosepele v Mokgethi*, 4). In this case, the violations of Rebecca Mosepele's institutional trust in the police were multi-fold. First, when Mokgethi lied to her about giving her a lift to the taxi rank and thus abused his institutional authority to reassure her. Second, when he raped her and used his service pistol to threaten her into submission. Third, when she entrusted the SAPS again by reporting this crime to other police officers and they allowed the accused to sit in on the interview. These police officers subjected her to gross victimisation by inviting her rapist to sit in and occupy a position of authority while she made her report against him. Finally, she was victimised when the police officers promised that they would contact her with a court date and failed to do so. Thus, Rebecca was subjected to a series of violations of her personhood and integrity. Recall once again the temporal dimension of trust (3.1.4.). Rebecca constantly negotiated and entrusted her safety and protection to different agents of the police only to have her trust and

safety repeatedly violated by them. It is these consistent and repeated violations that have the ability to shift an individual's perspective from a trusting outlook towards a distrusting outlook.

Rebecca's personhood was violated again and again by an institution she trusted with her vulnerabilities, an institution that is often the last line of defence for women and children. It is the police that enforce the law by, for example, making sure that rapists do not violate bail orders and that violent partners do not breach protection orders. It is difficult to reconcile this idea of the police and the experiences of Rebecca and it is difficult to imagine how there would not be a serious breakdown of legitimacy (of the SAPS and the South African state) for her and other women who have heard her story. Below, I explore the argument that, for women who have been sexually assaulted after trusting a police officer, there are insufficient additional systems of accountability to hold rapists accountable and, thereby to rebuild institutional trust. Because the systems are insufficient, they further traumatize victims of sexual violence and thus break down institutional trust and authority to such a degree that the legitimacy of the South African state is severely questioned.

In section 1.3.2. of this thesis, I laid out the extent of femicide in South Africa as per the number of cases that are reported to the SAPS. One could argue, after taking the obstacles described above into consideration, that many victims would simply refrain from taking their case to the SAPS in the first place. A situation exacerbated when the case is against one of their own. The large, estimated number of unreported cases of sexual violence provides silent testimony to the extent of mistrust that crime victims already have towards the SAPS. In addition to this, as previously explained, when a victim goes to report a crime against a police officer, the first report is done at a police station and it is then forwarded to the Independent Police Investigative Directorate (IPID). IPID is an investigative body that is mandated to investigate and gather information on police criminality, especially where murder, rape and corruption are committed by police officers. The Independent Complaints Directorate (ICD), which sat within the SAPS, was disbanded by the 2011 IPID Act (Republic of South Africa, 2011). The Act gave IPID greater power and authority to investigate crimes because, unlike the ICD, it does not sit within SAPS. However, the competency and scope of IPID to monitor and provide oversight was substantially limited. Where ICD was an investigative, monitory and oversight body, IPID was only mandated to investigate the crimes of police. This means that the only oversight function IPID performs is investigation and case preparation. The case is then handed over to the National Prosecuting Authority (NPA). Therefore, IPID cannot propose or enforce structural

or cultural changes to the way in which the SAPS operates. However, even though IPID is limited to mainly investigating functions, IPID does not investigate every case it is presented with. David Bruce (2020: 20), in a research paper series written for the African Policing Civilian Oversight Forum (APCOF), wrote:

There are differences in the wording of the provisions applicable to the ICD ('may refer the results of an investigation') and in the IPID Act ('must ... refer criminal offences revealed as a result of an investigation ... for prosecution'). What is important to note is that neither provision requires that all investigations be referred to the prosecuting authority. In the case of the ICD, the authority of the Executive Director was discretionary. In the case of the IPID Act, it is explicitly stated that the results of an investigation must be submitted to the NPA only when an investigation confirms that there is *prima facie* proof that a criminal offence was committed.

This makes it clear that not all cases are referred for prosecution. This means that accountability can be evaded on a systemic level: women and children who have been victims of rape could be denied justice before it even makes it to the court based on the evaluation of IPID officers who determine if a case contains *prima facie* proof of a criminal offence. In the 2018/19 IPID Annual Report, it was reported that, of the 124 reported rapes by police officers, only 6 cases involving rapes committed by a police officer resulted in a criminal conviction (less than 5% of cases resulted in criminal conviction) (Independent Police Investigative Directorate, 2019).

IPID faces great constraints in terms of funding and human resources (investigators). The Civilian Secretariat for Police provides civilian oversight over the SAPS and augments the Minister of Police's role (Civilian Secretariat for Police Service, n.d.). Chairperson of the Committee, Tina Joemat-Pettersson (Mlamla, 2020) was reported as saying:

We are of the view that the problems of incapacity of IPID due to budget constraints are concerning considering that they impact contract management, service delivery and coverage and accessibility, as well as compliance with accounting and reporting responsibilities.

In addition to the lack of independent oversight over the SAPS and threats of budget cuts, IPID is also inextricably linked to the SAPS. IPID's executive authority is Bheki Cele, the Minister

of Police. The Minister of Police also refers the nomination for the head of IPID to the CSPC (Civilian Secretariat for Police Service). In an investigative series, journalist Daneel Knoetze and Viewfinder exposed IPID's cover-ups of police brutality in South Africa. Knoetze uncovered how IPID employees were manipulating statistics and closing "a case a minute" in order to appear to be high performing (Knoetze, 2019). This raises many questions about the competency of IPID and its ability to ensure institutional/systemic reform and justice for victims who have been raped by police officers. Recall in section 1.3.2., I discussed the statistics regarding the reported rapes committed by police officers as they are reflected in the Annual Reports of IPID (2014/15-2018/19). In the report period, 2014/15-2018/19, 571 cases of rape by a police officer were reported to IPID. Only 365 of these cases made it onto the court roll to be presented in front of a judge for criminal proceedings. The three case studies in this thesis, the cases of K, F and Rebecca Mosepele, are not the only cases of rape being committed by police officers. Every year approximately a hundred cases are directed to IPID to investigate police officers who have been accused of committing rape.

Where ineffective and insufficient oversight reigns in an institution such as the SAPS, victims' institutional trust is eroded and undermined. As a result, the authority and the legitimacy of these institutions are threatened. These threats are clearly not limited to the direct, individual victims of these assaults: these instances of sexual violence committed by police officers send a frightening message to all women who live in South Africa. Not only can police officers not be trusted to protect them from sexual violence; they might even be the ones who perpetrate this offence with impunity.

Thus, the general public's institutional trust in SAPS is in jeopardy. When police officers and IPID fail victims of rape by police officers, the judiciary is often the end of the line for justice. It appears that the SAPS and government are either insufficiently aware of, or concerned about, the impact of cases where police officers not only do not assist civilians, but positively inflict harm upon vulnerably positioned women under the guise of being their protectors. Similarly, they seem unaware or unconcerned about the compounding effect of poor oversight measures to ensure that perpetrators are held accountable. The ripple effect of impunity in police officers who rape is enormous as it deeply undermines women citizens' trust in the SAPS and, by extension, the legitimacy of the state itself.



Below, I will explore the legal processes and outcomes of the three court cases that serve as case studies for this thesis. I argue that, while two of these cases (namely K and F) were ultimately met with favourable judgements, the fact that the victims had to institute lengthy court processes in order to be granted justice (in the form of monetary compensation for damages) does very little to rebuild trust in these institutions. It could be argued that the reason why these cases took so long is because the cases of K and F required novel verdicts, insights and guidelines from the Constitutional Court to develop the law as it stood. This, of course, does not negate the fact that adversarial legal systems require lengthy processes (in the pursuit of legal clarity) that typically retraumatize victims of sexual violence.

In the case of K, the three officers who raped her were charged with rape and kidnapping in 2000 in the Johannesburg High Court. They were sentenced to life imprisonment for rape and ten years imprisonment for kidnapping. K then instituted proceedings in the Johannesburg High Court in order to hold the Minister of Safety and Security vicariously liable for the conduct of the police officers as employees of the state. K's claim was dismissed by the High Court and the Supreme Court of Appeal. She eventually received a favourable judgment from the Constitutional Court in 2005. The Minister of Safety and Security was required to pay the legal costs of K (*K v Minister of Safety and Security*, at 60).

F was 13 years old in 1998 when she was raped by van Wyk. Van Wyk was convicted of rape and assault and was sentenced to 12 years of imprisonment, five of which were suspended. In 2005, when F reached the age of maturity, she approached the court to hold the Minister of Safety and Security vicariously liable. She approached the Western Cape High Court and, thereafter, the case was heard in the Supreme Court of Appeal. In 2011, F received a favourable judgement from the Constitutional Court holding the Minister of Safety and Security liable to pay damages that arose from the conduct of Van Wyk, whom F had trusted as an agent of the state. I argue that while these cases finally had favourable outcomes in the Constitutional Court, the processes that these victims had to undergo to hold the executive of the state accountable further violated institutional trust and promotes distrust in these institutional bodies. The resilience of these complainants must be commended because they helped to shape Constitutional legal thinking about the vicarious liability of the state in instances like these.

In the case of Rebecca Mosepele, Rebecca was raped and assaulted by JK Mokgethi in 2014. Mokgethi died soon after the incident so Rebecca could not institute a criminal case. As such,

she approached the North West High Court to make a claim for damages against Mokgethi's estate and the Minister of Police (previously known as the Minister of Safety and Security) by application of the principle of vicarious liability. She was successful in her claim against the estate of Mokgethi due to his wife's non-defence in these proceedings. In contrast to K and F, Rebecca Mosepele was however not successful in her claim against the Minister of Police. In an effort to determine liability, Judge Gutta of the North West High Court wrote:

Plaintiff testified that she knew the deceased from the police station and she trusted him as he was a police officer. She said she did not know if he was on duty or not. There is no evidence that the deceased's employment facilitated the abuse of trust. Plaintiff was neither a vulnerable woman nor a child. She voluntarily accepted a lift from the deceased (*Mosepele v Mokgethi*, at 41).

What is extremely disturbing about this judgement is that the judge alludes to the fact that Rebecca was not 'vulnerable enough'. Just because she was not stranded in the middle of the night does not mean that she was in any less danger than she would have been in any other place where women are killed and raped in this country. The fact that she 'voluntarily' accepted Mokgethi's offer does not take away from the fact that Rebecca Mosepele only knew Mokgethi as a police officer. The term 'voluntarily' reminds one of all the times that women are blamed for the actions of rapists. It alludes that Rebecca Mosepele accepted the lift and, as a result, should be held responsible for all the actions and events that followed even if it resulted in rape and assault. We have already discussed how every act of trust entails an element of risk taking. Also, the other two victims consented to make use of the protection offered by the officers, but all three of their decisions to place their trust in men they understood to be police officers do not make them co-responsible for the attacks thereafter visited upon them. I argue that it is irrelevant whether Mokgethi was on duty at the time or not, the fact remains that she only knew him as a police officer. As such, the assistance that was offered to her was presumably viewed as coming from an agent of the state mandated to protect her interests. Rebecca Mosepele is a working class, Black woman who was pregnant and in an abusive relationship. She very well could have simply accepted a lift from a police officer (that she previously knew) based on the belief that it would be safer than the harassment she could have experienced while walking to the taxi ranks.

I argue against Judge Gutta that the reasoning presented in this judgement implies that unless one is stranded (vulnerable as a woman or child) and unless it is explicit that a police officer is on duty (and explicitly performing duties based on his employment), women in South Africa should not trust the men that wear the police uniform. This would mean that the trust civilians may realistically place in the institution of policing is incredibly conditional. These conditions do not simply imply noncompliance; that a police officer who is off duty would not assist when, for instance, someone's handbag is stolen. Rather, it implies that when police officers are not on duty, they could very well be rapists. It seemingly does not matter if one's relationship with an individual is solely based on their social role as police officer; women in South Africa should always be suspicious that these men too could also be rapists. And if they fail to be mistrustful enough, they will be (rightly? proportionally?) punished for this error of judgement. The judge fails to consider the crucial role trust played in this case. She fails to consider the construction and subsequent violation of trust (interpersonal trust, self-trust and institutional trust) and its impact on Rebecca Mosepele. In addition to the deeply personal assault of rape, her ability to trust in her self, trust in others and trust in the police (and the state) may be radically compromised. The judge clearly does not pay much mind to the precarious nature of institutional trust in a new democracy. Similarly, she does not seem to pay attention to the unique and essential role that institutional trust in the police plays in the fight against femicide in this country. Rebecca Mosepele had to face continuous victimisation only to eventually appear before the High Court where she was denied justice once again.

The judiciary, as one of the three branches of government, serves as oversight and accountability mechanism in the democratic state. This body provides checks and balances for the conduct and mandates of the legislature and executive. It is sobering to consider the number of times these supposedly straightforward criminal cases have failed in court, before they finally succeeded. In these case studies, the judges who handed down unfavourable judgements for the victims of these three rapes reaffirmed the existing, unacceptable obstacles to the rebuilding of institutional trust and the legitimacy of the police as agents of the state. Thus, the courts' actions perpetuated mistrust in the state, its agents, and bodies of accountability. I argue that, as a result, attacks against the legitimacy of the state happen in two separate processes. Firstly, when individual police officers violate institutional trust by manipulating women and presenting themselves as helpful and sincere agents of the state, only then to violate this trust through rape and assault. Second, when the systems of accountability are so cumbersome, gruelling and demanding that a reasonable and realistic mistrust in the agenda and effectiveness

of the state is likely to continue to grow. This includes the processes and procedures that require that rapes committed by police officers be reported to other police officers and the possible retraumatization of victims through court processes. Dee Smythe (2015: 195) theorizes that attrition in the criminal justice system is based on how the police serve as “vetting agents” who determine the “credibility” of rape victims and, based on this process, then decide the level of commitment and investigative capacities they will confer on each case. She writes:

The police are not the ‘gateway’ to the criminal justice system, an image which suggests that one is either in or out, entry permitted or denied. Instead, the investigation stage is better viewed as a gantlet. It is possible to pass through, but the expectations are ongoing and relentless, and few will come out on the other side unscathed. The expectation that police have of complainants is that they must continuously prove their commitment to the process, by being a ‘good complainant’. The institutional trust and by extension the legitimacy of the state as one that protects and serves the interests and freedoms of women and children further deteriorates.

I strongly concur with this argument. Victims have to be resilient and persevere throughout the process of reporting and during any court proceedings that come about. They have to rally extensive resources, time, and emotional resolution in order to fight for justice and accountability. This process is not only severely cruel and unjust, but actively works to destroy the trust women and children have in the institutions of the state that should protect them. If women and children cannot trust the police and other state institutions, it is unclear who they should turn to in situations where they require assistance. It delegitimizes the state as a body that aims and is mandated to protect and serve the women and children of this country. In addition, it promotes mistrust. If we cannot trust institutional bodies that are the primary agents against gender-based violence, the system in which trust operates is corrupted. Remember I argued earlier that the police and communities stand in mutual need of trust from one another. When communities hold pervasive mistrust towards the SAPS, and therefore do not report crime, SAPS becomes proportionally incapacitated. In a country such as South Africa, where reported rates of sexual violence are so exceptionally high, these institutions ought to be going above and beyond narrowly circumscribed duties to remedy institutional iterations of misogyny and violent masculinity. They certainly should not work to condone acts of patriarchal violence through inaction.

#### 4.3.2.3. *Legitimacy*

As discussed in the previous chapter, trust and legitimacy are inextricably linked. Trust in institutions is a positive expectation regarding the behaviour of the trusted institution and its representatives. Legitimacy is the belief that institutions are morally permitted to act with authority. Where police officers abuse their power and violate institutional trust, particularly through sexual violence, it can shift civilians' (particularly women's) perspectives towards distrust in policemen, police officers of either sex, the state, and the society at large. I argue that, when violations of institutional trust are not remedied by sufficient oversight and accountability, it threatens the legitimacy of those institutions and the state that employs them. Where violations of institutional trust are so violent and pervasive that they destabilize legitimacy (specifically with regard to institutions such as the SAPS and the state as their employers), it directly affects the quality of the citizenship and governance that women in South Africa experience. I explore these arguments further below.

When subjects and entire demographics of people (for example, women, Black people and queer or gender non-conforming people) feel as if they are not being valued and protected, then the authority of the state is eroded. When this occurs, the relationship between the police and the community they are meant to serve becomes compromised. Just as one attack on a civilian woman by the police undermines the work of those officers in the police who are trying to push to dismantle patriarchy, it also contaminates the relationship civilian women have with the police as a body.

This contamination is not limited to the individuals directly involved; instead, it has a contaminating effect on all police and all vulnerable citizens, especially women and girl children. This makes it harder for 'good' police officers to do their job of protecting women and children because they will be greeted with suspicion and mistrust. It also makes it harder for women in the police to step forward with cases of abuse at work because they may fear that it will further tarnish the reputation of the SAPS or they will be punished for betraying the 'fraternity'. The legitimacy and the authority of the police service immediately becomes compromised; police orders (even if they are well intentioned) may be second-guessed and ignored as women weigh up how trusting they should be of police officials. For example, women who are driving alone at night may be less likely to be trusting when a police officer attempts to pull them over. They would rather ignore the sirens of officials until they reach

home or a public space, like a garage, because they fear that a broken taillight could be used as a means to manipulate them into a scenario where the official might sexually assault them. Moreover, since the police are normally the first port of call for women who have been sexually assaulted and raped, if the police themselves become known as potential rapists, it is very likely that women would have far less confidence reporting rape to other police officers. Even if a victim assumes that not all policemen are sexual predators, she may realistically fear that, if the attacker were a policeman, other policemen would be likely to cover for him and not take her official rape complaint seriously. This should be viewed in relation to the discussion above in 3.4.3. where it was highlighted that first order institutions require institutional trust. The very functionality and machinery of the police as the executive branch of the state rely on institutional trust. As cases of sexual violence by police officers become more notorious, there is a systemic and continuous break down of legitimacy in the relationship between the police service and those they are mandated to protect. Thus, going a step further, this break down is inextricably linked to the relationship women have with the state.

The publicization of cases of police officers sexually assaulting civilian women can cause a culture of distrust to form where women believe that they should not trust any police or state agent. In a society where rape and gender-based violence are pervasive and widespread, there remains few groups of people or individuals that women and children can trust. Women and children are cautioned not to trust that uncle, or that teacher, or that youth pastor or that neighbour. As these cases of police officers committing rape increase, so does the tendency for women and children to be indiscriminately distrustful of all others in society. This might lead to particularized forms of trust where women only trust other women. However, there are also women who uphold patriarchal values and, as such, provide little solace for victims. A woman who is committed to upholding patriarchy is also more likely to violate the trust that other women place in her as we have seen with the policewomen in Rebecca's case. This further reinforces attitudes of distrust, a belief that essentially no one can be trusted and the belief that society is made up of people who are malicious and ill-intentioned.

Thomas Brudholm (2015: 92) writes that we should not adopt an expansive definition of human rights violations because the legal, philosophical and moral history of the concept rightfully implies that only human rights violations committed by state officials should be categorized as such so that the state itself can be held accountable domestically and internationally. He (ibid.) writes:

That is, it is one thing to be wronged or injured by other individuals, acting on the basis of whatever powers or forces they can muster in their private capacity. It is something different, at least in part, to be wronged or abandoned by the very entities who were vested with the power ‘to protect and to serve’, to provide care or to maintain the legal frameworks and institutions through which much of our lives are structured.

Brudholm (ibid., 93) also writes:

An instrument designed to regulate the use and abuse of power needs to be kept sharp. Not just because the asymmetry of power between governors and the governed is radical and ripe with potentials for abuse and oppression, but also because ‘the greatest violators’, as Charles Taylor has put it, tend to try to ‘hide behind a smoke screen of lies and special pleading’.

He thus argues that, because of the power asymmetry (between individuals and state entities and agents), we should retain this narrower definition of human rights as state violations (or violations committed by state-sanctioned bodies and actors), instead of broadening it so much that it loses its power to hold state actors and institutions accountable for violations. Generally, state institutions want to ignore or quickly move past violations that their agents commit but this can amount to secondary victimization. In the cases presented in this thesis, it is even worse. Not only is the government seemingly callously ignoring the gravity of these violations, but they are also failing to hold their agents who are active perpetrators accountable. We are thus squarely within the ambit Brudholm talks about – human rights violations committed by state powers, combined with justice systems that fail to hold the state itself responsible. Since this is the case, it becomes possible to explore international avenues to ensure accountability, these could involve taking the South African government to the African Commission for Human and People’s Rights, or to the African Court for Human Rights violations because these rapes were perpetrated by agents of the state and not properly acknowledged and rectified by the responsible bodies of oversight and justice.

To summarize, where the state is responsible for the actions of its employees, and I have established that they are in the cases presented, they must ensure that any violations are met with remedy, accountability, and structural change to the culture of the implicated institution



(in this case the SAPS). If this does not occur, human rights violations will continue to set a precedent for the interactions between civilians and the SAPS. I have argued that this has radical consequences for the legitimacy of the young South African democracy insofar as the state is incapable of protecting women and children from threats and acts of violence and state agents participate in these acts of violence. The quality of women's citizenship and, by extension, the success of the democratic project is called into serious question. The democratic project cannot be deemed successful if women and children are frequently violated and murdered. The democratic project cannot be deemed successful when the women and children that the state has promised to prioritize are violated by the state agents that are meant to ensure their protection. The democratic project cannot be successful if violence against women and children is so pervasive and severe that the phenomenon starts to jeopardize the overarching attitudes of trust, replacing them with pervasive distrust in democratic institutions and fellow citizens alike.

### ***Conclusion***

Women in South Africa live in a society defined by hyper-masculinity and rape culture. They have found small comfort in the belief that there are people who are mandated and bound to protect their rights and freedoms. South African police officials are supposed to fulfil this role and offer a beacon of hope and a protective shelter. Where violations of trust have occurred, as was the case in the case studies presented, they fundamentally shift women's perspectives regarding their own safety and belonging in the world and in the country. In this chapter, I have shown that the violations faced by the victims in the case studies resulted in an array of harms. When police officers intentionally cultivate trusting relationships, based on their authority as agents of the state in order to overpower and brutalise victims, it results in severe harms to self-trust, interpersonal trust, and institutional trust. Such violations may sabotage the victim's ability to maintain the thick relationships of trust that they once had with their friends and family. In fact, these violations may affect all the victim's future interpersonal trusting judgements. Severe violations of trust can also sabotage the trust that one has in one's self. The comfortable embodiment, narrative clarity, and independence that one might have had before the assault can become compromised, endangered and shattered. In the aftermath of severe violations of trust, women may find that their ability to trust others, to feel safe in the world and to feel as if there is accountability in the world, have all been desecrated. These harms are not easy to overcome.

Instead of acting convincingly and consistently as the champions of women's fundamental human rights, we see that in too many instances, officers abuse the relationships of trust that their employment offers them, to commit the exact same crimes that women fear most. Neither is this a random or exceptional occurrence – the structures that are supposed to repair trust in the SAPS after such a vicious betrayal, are also not functioning as they should, leading to a potentially much larger scale breakdown of trust between women (and girls) and SAPS as an institution. Women and children in South Africa are in need of the rights and freedoms that were fought for and promised in the new democratic dispensation. In contrast to this rape and sexual violence work to shatter and remove women and children from the dignities and integrity of the world they belong in.

## CHAPTER 5: CONCLUSION

This thesis set out to investigate the role of trust in the formation of relationships between police officers and victims in cases where police officers committed rape after initiating a trusting relationship. I have shown that trust is an interconnected network which is made up of various distinct forms of trust (namely interpersonal trust, self-trust, and institutional trust) that come together to give rise to a specific trusting judgement or relationship. When we trust, it is required that we take various considerations into account to decide how and when to trust, who to trust, what to entrust a person or entity with and the degree to which we trust that person or entity. To illustrate this, I explored each form of trust and the various factors that are taken into consideration when one decides to trust or mistrust, and to what degree. My approach was to first delineate and then utilize these theories of trust (in their distinct forms) to explain, explore and examine the types of trusting judgements that may have occurred between the officers and women in the three case studies. Thus, my approach was to argue that the trusting relationships that were betrayed in the three case studies violated an entire network of trust. This thesis, therefore, set out to show that, when police officers commit rape after forming trusting relationship with women, the betrayal results in consequences that are devastating and far-reaching. The harm is multiplied in ways that are not the same in cases where individuals are attacked from behind by strangers they had never formed trusting relationships with. These violations can shift victims' trusting perspectives so that they become perspectives of suspicion (mistrust) or even indiscriminate cynicism (distrust). These violations also have the ability to shift individual, but importantly also wider communal and social, attitudes about the authority and legitimacy of the police service and the state itself.

My first step was to lay out the socio-political and historical context in which these three cases took place. This was necessary because these cases do not exist in a vacuum. Rather, they are deeply influenced by systemic factors such as the historic and present-day attitudes of the South African police as well as the current state of gender-based violence and femicide in South Africa. I laid these factors out in section 1.3. We saw that the fight for justice for victims, their families and all those who are systemically vulnerable (in terms of race, class, gender) in South

Africa remains ongoing. We saw that national crime statistics paint a particularly dire picture of the state of safety, freedom, and dignity of women and children in South Africa. In this exposition, I have showed that we are in a state of crisis, as women and as a country. The freedoms, safety and protections promised in the new democratic dispensation remain elusive for women and children, who live in fear of abuse and violation or already face ongoing abuse and violation. This background served as a specific lens through which to view the three case studies that are central to this thesis.

In Chapter 2, I explored the facts of three cases studies: *K v Minister of Safety and Security* (2005), *F v Minister of Safety and Security* (2012), and *Mosepele v Mokgethi and the Minister of Police* (2018). Before exploring the three cases and their specific facts, I presented the case of *Carmichele v Minister of Safety and Security* (2001). This was necessary because the case highlights the responsibilities that actors of the state (specifically those in the criminal justice sector) have to protect women and children against (sexual) violent crime. Through an explanation of vicarious liability in these three cases, I was able to provide an account of how important trust was and is in the relationships between women and the police service. These cases highlight how important trust in the police is for the citizenry and emphasize how significant trust is to the ethos of the police as an institution of the state. As such, I was able to establish that the duty of police officers to protect women and children is crucial to the functioning of our democracy. Additionally, this duty to protect requires trust between police and the citizenry.

In light of the above, I then set out in chapter 3 to explore trust as a philosophical concept, in order to develop a more fine-grained theoretical framework through which to view the role of trust in the case studies. Section 3.1.1. explored the components that are involved in each trust relationship. I inspected Trudy Govier's (1997, 1998) three components of trust, namely trust as a positive expectation, trust as risk, and trust as meaningful communication. In addition to these three components, I presented a fourth component, namely the intimate relationship between trust and time, for which I used the work of Niklas Luhmann. In section 3.1., I tried to determine why and how trust comes to be and what other factors influence the cultivation of trust. In 'Trust as Positive Expectation' (section 3.1.1.), I was able to determine that trust is cultivated, negotiated (and re-negotiated) and given in various degrees once we have gauged the intention and competence of another. This exploration included the significance of thick and thin relationships of trust and why each is important in our daily lives. In section 3.1.2.,

‘Trust as Risk’, I was able to differentiate between the risk that is always present in trust judgements and the systemic risk (vulnerability) that exists where power and subjugation render certain groups of people specifically vulnerable. With ‘Trust as Meaningful Communication’ (section 3.1.3.), I was able to see how we rely on trust to learn about the world around us. I also explained that when we aim to trust, we search for sincerity and transparency in the potential trustee. Lastly, section 3.1.4, ‘Trust and Time’, importantly highlighted the temporal dimension of trust. When we trust we draw on our experiences of the past, to make a decision to trust/mistrust in the present about a possible outcome in the future. In our daily lives we renegotiate trust in our self, in others and in institutions, and this is an ongoing, dynamic process in which we time and again revisit our perspective on our past, present and future.

The second, third and final themes of this chapter worked together to illustrate the interconnected network of trust we all find ourselves in. In this network, interpersonal trust, self-trust and institutional trust are distinct forms of trust that work together to give rise to a trusting judgement. I examined each of these forms of trust to specifically determine what are the distinct elements that go into decisions about each of these forms of trust. Interpersonal trust relies on the interpersonal communication between a truster and trustee. Where it involves thick relationships of trust, we consider past experience as well as motivation and competence. In thin relationships of trust, we consider general demeanour, which includes body language, words spoken and actions, to gauge the trustworthiness of another person. Self-trust is required for all trust judgements. Our ability to form wise judgements and to trust/mistrust other people is premised on how well we are able to trust in our own assessments of the world and in the assessments we have of our own intentions and competence. Self-trust relies on the relationship we have with ourselves and depends on whether or not we are able to trust/mistrust ourselves effectively. Institutional trust is crucial to our social and political well-being. I examined the role and cultivation of institutional trust and its importance in new democracies. Institutional trust in new democracies, like South Africa, plays a crucial role in ensuring the legitimacy of state authority, the quality of citizenship and the stability of the social order.

Following on from the account of the different types of trust and how they interact with one another, and what considerations go into trust judgements of these different kinds, I could then investigate in detail what happens when each of these forms of trust is violated or betrayed. I dedicated chapter 4 ‘A Network of Violations’ to analyse the distinct forms of harm flowing

from such betrayals. And I did this by applying the philosophical analysis of trust to the three central case studies. I challenged the notion that the harms committed in the rapes in these case studies only individually affected the victims. The interpersonal harms that likely followed these severe trust violations (Section 4.1.1.2.) included adopting a more mistrusting perspective, increased scepticism or adopting a contrary perspective to trust in other words, distrust, where one does not believe that trust can exist, where everyone is viewed through the lens of indiscriminate suspicion of others, a pervasive sense of paranoia and debilitating fear. Systemic harms that occur in the aftermath of rape include testimonial injustice, where certain groups of people are not heard because of prejudicial stereotypes that stop the listener from allowing the speaker to contribute to the shared pool of knowledge in a meaningful way.

There are also specific harms to the self (section 4.2.1.) that follow rape, including harms to self-trust and a shattering of the self. When rape follows self-trusting judgement, it threatens the embodiment of the self (the relationship an individual's mind and body has with their sense of self), the ongoing and future narrative of the self, and the agency and relationality of the self. This shattering displaces the self and renders it homeless and adrift, because the basic ties of trust that bound her to the world and to others have been severed. Each of these victims had to make sense of the fact that they had voluntarily gone with the policemen because they had trusted them. This kind of calculated betrayal leaves a victim with a sense of distrust in herself and her capabilities, unable to trust, thus unable to act and navigate herself and her path through the social world around her. Where systemic/situational vulnerability works in conjunction with violations that damage self-trust, systems of oppression (such as violent patriarchy) can exacerbate threats to a victim's sense of who they are and their place in the world.

The harms of sexual violence committed by police officers entail a violation of institutional trust which may call the legitimacy of state institutions into question. In section 4.3.2., I argued that rapes committed by police officers, especially if they occur after the officers have deliberately worked to present themselves as trustworthy, are a violation of the promises that the state makes to its citizenry vis-à-vis safety, protection and the promotion of fundamental human rights. The Bill of Rights promises to citizens that their safety will be prioritised by the state, and each of these perpetrators personally promised these particular women the same. Once again, I challenged the notion that these rapes were solely interpersonal violations by showing that they have unique consequences for the effectiveness of the police and the state. Where the state fails to hold police officers and the culture of policing adequately accountable,

their legitimacy and overall trust in the police and the state erodes. This erosion in the relationship between the citizenry and the police and the state threatens distrust. Distrust in the police and the state would mean that women trust no one and then particularized forms of trust would dominate the social order. Where the police as a state institution is viewed through the lens of distrust, the effectiveness and functionality of this body hangs in the balance.

It can thus be concluded that, when the police officers and the women in these case studies formed relationships of trust, these relationships drew upon an entire network of distinct forms of trust. When these trusting relationships were violated, the entire network was violated, and this resulted in very specific harms for each form of trust which then came together to completely disorientate the individual and the systems of society she occupies. These harms are pervasive and alarming, and they are unfolding over time, accumulating in a corrosive way. They threaten the interpersonal, individual and collective (socio-political) well-being of our society and democracy. South Africa has some of the most harrowing rape and femicide statistics. If rape, assault and kidnapping committed by state actors is not proactively addressed, women's citizenship within this country will continue to be called into question. The case studies presented in this thesis are not merely individual stories; they are narratives of a broken system. Rape is a private as well as a public issue and the rapes committed by police officers illustrate the radical systemic failure of the South African state to keep women and children safe, alive and free from harm.

### *Future Research*

There are two salient prospects for future research. The first avenue for future research would be to look at Onora O'Neill's (2017) account of trust in the aftermath of violence. O'Neill (ibid.) argues that in the aftermath of violations of trust, we should not push for the rebuilding of trust. This is because the rebuilding of trust would involve the aggrieved party as well as the individual or institution that committed the violation. Rather, we should advocate for building trustworthiness so that those who have violated trust are encouraged to work on themselves in order to become more trustworthy. In other words, we should not be asking for more trust but rather we should ask for more trustworthiness. This is especially important when institutions that hold public trust violate this trust. There needs to be aggressive advocacy (internally and externally by bodies who hold these institutions accountable) for increased trustworthiness. In terms of the cases presented in this thesis, this would mean that the SAPS would need to reform and strategize around how to be more trustworthy; more worthy of the trust the citizenry want



and in many cases need, to put in them, instead of simply appealing to the general public to trust them more.

The second avenue for future research includes investigating the merits of the argument to defund police services. The arguments for defunding the police seem especially appealing in light of the contestation that police personnel pose a visceral threat to the safety and freedoms of women while simultaneously being especially equipped to garner trust from women because of the tools of state authority that they possess. Arguments for the defunding of the police largely focus on the United States of America (USA) and activists in the BlackLivesMatter movement have, in the last two years, called for the defunding and/or abolishment of federal police services in the USA. Patrisse Cullors, co-founder of the movement, spoke to Trevor Noah on the Daily Show in June of 2020, shortly after the murder of a North Carolina resident, George Floyd, by police officers. When asked by Noah what defunding the police actually means, Cullors (The Daily Show with Trevor Noah, 2020) said:

We don't need them to be at the helm of criminalizing the homeless. We need mayors and country government to actually show up and actually put dollars and money towards people who are homeless and getting them housing and shelter.

Further research into this option could include an exploration of the role of the police in cases of sexual violence. Considerable work needs to be done in weighing up the social expectation of punishment and justice for criminals versus the freedom and dignity of ordinary citizens who are targeted by the police. Lastly this conversation would need to be contextualized within South Africa's young democracy and take note of the similarities and differences that exist between South Africa and the USA.

## BIBLIOGRAPHY

- Al Jazeera Media Network. 2017. *India top court upholds 2012 gang rape death sentences* [Online]. Available: <https://www.aljazeera.com/news/2017/5/5/india-top-court-upholds-2012-gang-rape-death-sentences> [2021, February 26].
- Al Jazeera Media Network. 2020. *Global Protests in Solidarity with #BlackLivesMatter* [Online]. Available: <https://www.aljazeera.com/program/episode/2020/6/9/global-protests-in-solidarity-with-blacklivesmatter> [2021, February 24].
- Alcoff, L.M. 2018. *Rape and Resistance: Understanding the Complexities of Sexual Violations*. Cambridge: Polity.
- Baier, A. 1986. Trust and Antitrust. *Ethics*, 96(1):231-260.
- Bauhn, P. 2017. *Normative Identity*. London: Rowman & Littlefield Publishers
- Bawa, K. 2018. *Police, Police Guns and Gendered Violence* [Online]. Available: <https://www.voices360.com/cities/police-police-guns-and-gendered-violence> [2021, February 20].
- Bergoffen, D. 2018. The Misogynous Politics of Shame. *Humanities*, 7(81):1-9.
- Booyesen v Minister of Safety and Security* 2018 (9) BCLR 1029 (CC).
- Borgwald, K. 2012. Women's anger, epistemic personhood, and self-respect: an application of Lehrer's work on self-trust. *Springer Business & Science Media*, 161(1):69-76.
- Botes v Van Deventer* 1966 (3) SA 182 (A).
- Bradford, B., Jackson, J. & Hough M. 2018. Trust in Justice, in E.M. Uslander (ed.). *The Oxford Handbook of Social and Political Trust*. New York: Oxford University Press. 633-653.
- Brothers, D. 1995. *Falling Backwards: An exploration of trust and self-experience*. New York: W.W. Norton & Company Ltd.
- Bruce, D. [2020]. Are South Africa's Cops Accountable? Results of Independent Police Investigate Directorate Investigations. *APCOF Research Paper*, (25) [Online]. Available: <http://apcof.org/wp-content/uploads/025-aresouthafricascopsaccountable-resultsofindependentpoliceinvestigativedirectorateinvestigations-davidbruce.pdf> [2021, January 8].

Brudholm, T. 2015. Hate Crimes and Human Rights Violations. *Journal of Applied Philosophy*, 32(1): 83-97.

*Carmichele v Minister of Safety and Security* 2001 (10) BCLR 995 (CC).

*Civilian Secretariat for Police Service (CSPS): National Government* [Online]. [n.d]. Available: [https://nationalgovernment.co.za/units/view/8/civilian-secretariat-for-police-service-csps#:~:text=The%20Civilian%20Secretariat%20for%20Police%20\('the%20Civilian%20Secretariat'\)%20serves,\('the%20Police%20Service'\)](https://nationalgovernment.co.za/units/view/8/civilian-secretariat-for-police-service-csps#:~:text=The%20Civilian%20Secretariat%20for%20Police%20('the%20Civilian%20Secretariat')%20serves,('the%20Police%20Service')) [2020, January 8].

Crenshaw, K. 14 March 2016 [Video File]. Available: <https://www.youtube.com/watch?v=DW4HLgYPIA&t=1615s> [2021, February 9].

Dagger, R. 2018. Authority, Legitimacy, And the Obligation to Obey the Law. *Cambridge University Press Legal Theory*, 24(2):77-102.

Du Plessis, N., Kagee, A & Maw, A. 2009. Women's Experiences of Reporting Rape to the Police: A Qualitative Study. *Social Work/Maatskaplike Werk Journals*, 45(3):275-289.

Du Toit, L. 2018. The Right to Interpret: Epistemic Justice For Women in South Africa, in Chris Jones (ed.). *Justice-based Ethics: Challenging South African Perspectives*. Cape Town: AOSIS (Pty) Ltd. 3-26.

Dusza, K. 1989. Max Weber's Conception of the State. *International Journal of Politics, Culture, and Society*, 3(1):71-105.

Estlund, D.M. 2008. *Democratic Authority: A Philosophical Framework*. New Jersey: Princeton University Press.

*F v Minister of Safety and Security* 2012 (1) SA 536 (CC).

Fricker, M. 2007. *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford & New York: Oxford University Press.

Govier, T. 1998. *Dilemmas of Trust*. Montreal: McGill-Queen's University Press.

Govier, T. 1997. *Social Trust and Human Communities*. Montreal: McGill-Queen's University Press.

Govier, T. 2002. *Forgiveness and Revenge*. London: Routledge Taylor & Francis Group.

Govier, T. 2015. *Victims and Victimhood*. Ontario: Broadview Press.

- Govier, T. 2016. *Trudy Govier Curriculum Vitae* [Online]. Available: <https://uleth.academia.edu/TrudyGovier/CurriculumVitae> [2020, January 24].
- Govier, T & Prager, C.A.L. 2003. *Dilemmas of Reconciliation*. Ontario: Wilfrid Laurier University Press.
- Hardin, R. 1999. Do We Want Trust In Government, in M.E. Warren (ed.). *Democracy & Trust*. New York: Cambridge University Press. 22-41.
- Hardin, R. 2002. *Trust and Trustworthiness*. New York: Russell Sage Foundation.
- Hardin, R. 2013. Government Without Trust. *Journal of Trust Research*, 3(1):32-52.
- Huntington, S.P. 1991. *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma Press.
- Institute for Crime & Justice Policy Research. 2021. *Professor Mike Hough* [Online]. Available: <https://www.icpr.org.uk/people/professor-mike-hough> [2021, January 24].
- Jacobs, J. & Jackson, J. (eds.). 2017. *The Routledge Handbook of Criminal Justice Ethics*. Oxon: Routledge Taylor & Francis Group.
- Joubert, C. 2018. *Applied Law for Police Officials*. 5<sup>th</sup> Edition. Claremont: Juta and Company (Pty) Ltd.
- Kelland, L. 2012. Understanding the Harm of Rape. Unpublished doctoral dissertation. Rhodes University [Online]. Available: [http://vital.seals.ac.za:8080/vital/access/manager/Repository/vital:2700?site\\_name=GlobalView](http://vital.seals.ac.za:8080/vital/access/manager/Repository/vital:2700?site_name=GlobalView) [2021, February 20].
- Khoza, M. 2021. *Lindiwe Zulu awaits report on police water cannon used on grant recipients* [Online]. Available: <https://www.timeslive.co.za/politics/2021-02-03-lindiwe-zulu-awaits-report-on-police-water-cannon-used-on-grant-recipients/> [2021, February 24].
- Knoetze, D. 2019. *IPID's cover-up of police brutality in SA: Viewfinder* [Online]. Available: <https://viewfinder.org.za/kill-the-files/> [2020, January 8].
- Lehrer, K. 1997. *Self-Trust: A Study of Reason, Knowledge and Autonomy*. Oxford: Clarendon Press.
- Lenard, P.T. 2008. Trust Your Compatriots, but Count your Change: The Roles of Trust, Mistrust and Distrust in Democracy. *Harvard University Political Studies Association*, 56(1):312-332.

Machisa, M., Jewkes, R., Morna, C.L. & Rama, K. 2011. The War at Home: Gender Based Violence Indicators Project. Gender Links & South African Medical Research Council: Johannesburg.

Mavuso, S. 2020. *ANC outraged, embarrassed at looting of Covid-19 funds, says Magashule* [Online]. Available: <https://www.iol.co.za/news/politics/anc-outraged-embarrassed-at-looting-of-covid-19-funds-says-magashule-a6decd77-42b5-4087-8048-0c9976dde97c> [2021, February 8].

Lenard, P.T. & Miller, D. 2018. Trust and National Identity, in E.M. Uslander (ed.). *The Oxford Handbook of Social and Political Trust*. New York: Oxford University Press. 335-356.

Letki, N. 2018. Trust in Newly Democratic Regimes, in E.M. Uslander (ed.). *The Oxford Handbook of Social and Political Trust*. New York: Oxford University Press. 335-356.

London School of Economics and Political Science. 2021. *Professor Jonathan Jackson* [Online]. Available: <https://www.lse.ac.uk/Methodology/People/Academic-Staff/Jonathan-Jackson/Jonathan-Jackson> [2021, January 24].

Loubser, M & Midley, R. (ed.). 2017. *The Law of Delict in South Africa*. Cape Town: Oxford University Press Southern Africa (Pty) Limited.

Luhmann, N. 1979. *Trust and Power*. Chichester: John Wiley and Sons.

Mackenzie, C. 2014. The Importance of Relational Autonomy and Capabilities for an Ethics of Vulnerability, in Mackenzie, C., Rogers, W & Dodds, S (eds.). *Vulnerability: New Essays in Ethics and Feminist Philosophy*. New York: Oxford University Press. 33-60.

*Minister of Police v Rabie* 1986 (1) All SA 261 (A).

Mlamla, S. 2020. *Ipid budget constraints a big worry for MPs: IOL News* [Online]. Available: <https://www.iol.co.za/capeargus/news/ipid-budget-constraints-a-big-worry-for-mps-47975556> [2020, January 8].

*Mosepele v Mokgethi and Another* 2018 SA 66 (ZAWHC).

*N K v Minister of Safety and Security* 2005 (6) 419 (CC).

Ndongeni, E. *'I feel violated and angry': Woman, who was talking selfies while sitting on a bench in Sea Point, arrested* [Online]. Available: <https://www.news24.com/news24/SouthAfrica/News/i-feel-violated-and-angry-woman-who->

[was-taking-selfies-while-sitting-on-a-bench-in-sea-point-arrested-20190523](#) [2021, 9 February].

Offe, C. 1999. How Can We Trust Our Fellow Citizens, in M.E. Warren (ed.). *Democracy & Trust*. Cambridge: Cambridge University Press. 42-87.

O'Neill, O. *Linking Trust to Trustworthiness*, 19 September 2017 [Video File]. Available: <https://www.youtube.com/watch?v=A0u76tA1OyA> [2021, February 20].

O'Regan, C & Pikoli, V. 2014. *The Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha*. [Cape Town]: COMPRESS [Online]. Available: [www.khayelitshacommission.org.za](http://www.khayelitshacommission.org.za) [2021, January 20].

Peperzak, A.T. 2013. *Trust: Who or What Might Support Us?* United States of America: Fordham University Press.

PytlikZillig, L.M. & Kimbrough, C.D. 2016. Consensus on Conceptualizations and Definitions of Trust: Are We There Yet?, in Shockley, E., Neal, T.M.S., PytlikZillig, L.M & Bornstein, B.H. (eds.). *Interdisciplinary Perspectives on Trust: Towards Theoretical and Methodological Integration*. New York: Springer International Publishing. 17-48.

Republic of South Africa. 1993. *Interim Constitution Act 200 of 1993*. Pretoria: Government Printer.

Republic of South Africa. 1995. *South African Police Service Act 68 of 1995*. Pretoria: Government Printer.

Republic of South Africa. 1996. *Constitution of the Republic of South Africa Act 108 of 1996*. Pretoria: Government Printer.

Republic of South Africa. 2011. *Independent Police Investigative Directorate Act 1 of 2011*. Pretoria: Government Printer.

Republic of South Africa. 2015. *2014/15 Independent Police Investigative Directorate Annual Report*. Pretoria: Government Printer.

Republic of South Africa. 2016. *2015/16 Independent Police Investigative Directorate Annual Report*. Pretoria: Government Printer.

Republic of South Africa. 2017. *2016/17 Independent Police Investigative Directorate Annual Report*. Pretoria: Government Printer.

Republic of South Africa. 2018. *2017/18 Independent Police Investigative Directorate Annual Report*. Pretoria: Government Printer.

Republic of South Africa. 2019. *2018/19 Independent Police Investigative Directorate Annual Report*. Pretoria: Government Printer.

Republic of South Africa: National Treasury. 2018. *Estimates of National Expenditure Vote 3 2018*. Pretoria: Government Printer.

Republic of South Africa: National Treasury. 2018. *Estimates of National Expenditure Vote 13 2018*. Pretoria: Government Printer.

*S v Chapman* 1997 (3) SA 341 (A).

Thamm, M. 2016. *The Daily Maverick [Electronic]*. Available: <https://www.dailymaverick.co.za/article/2016-07-14-op-ed-time-for-specialised-sexual-offences-courts-to-become-a-reality/> [2019, July 15].

The Daily Show with Trevor Noah: What Does It Mean to Defund or Abolish the Police? | The Daily Social Distancing Show, 10 June 2020 [Video file]. Available: <https://www.youtube.com/watch?v=PVW2eaCyC5c> [2021, February 21].

The Provincial Secretariat for Safety and Security. 2018. *Research Study on the Demilitarisation of SAPS: Visible Policing in the Western Cape*. Cape Town: Western Cape Department of Community Safety.

The Social Justice Coalition. 2019. *[Press Statement] The Khayelitsha Commission of Inquiry- Five Years On* [Online]. Available: <https://sjc.org.za/posts/press-statement-the-khayelitsha-commission-of-inquiry-five-years-on> [2021, February 24].

The South African Police Service. 2020. *SAPS Crime Statistics 2019/2020* [Online]. Available: <https://www.saps.gov.za/services/crimestats.php>. [2020, October 20].

Tlhabi, R. 2017. *Kwezi: The Remarkable story of Fezekile Ntsukela Kuzwayo*. South Africa: Jonathan Ball Publishers.

Tyabazayo, P. 2014. The Khayelitsha Commission of Inquiry, Challenging the scope of provincial policing powers. *SA Crime Quarterly*, 50(1):17-22.

University College of London. 2021. *Dr Ben Bradford* [Online]. Available: <https://www.ucl.ac.uk/jill-dando-institute/about-us/people/academic-staff/ben-bradford> [2021, January 24].



Van der Walt, T. 2018. *#DontLookAway: Survey shows sexual harassment is rife all over SA* [Online]. Available: <https://www.iol.co.za/news/south-africa/western-cape/dontlookaway-survey-shows-sexual-harassment-is-rife-all-over-sa-18236168> [2019, May 10].

Vines, P. 2004. Agent-Responsibility and Vicarious Liability. *Australian Journal of Legal Philosophy*, 29(1): 179-184.

Warren, M.E. 2018. Trust and Democracy, in E.M. Uslander (ed.). *The Oxford Handbook of Social and Political Trust*. New York: Oxford University Press. 75-94.

Weber, M. 1968. *Economy and Society*. New York: Bedminster.

World Justice Project. What is the Rule of Law: Four Universal Principles [Online]. Available: <https://worldjusticeproject.org/about-us/overview/what-rule-law> [2020, June 18].